

Officer Adam Groves

September 26, 2017

DALE PHILLIPS

vs.

KAREN BLAIR, et al.

Case No. 2:16-CV-880



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DALE PHILLIPS,)	
)	
Plaintiff,)	
)	CASE NO.
vs.)	2:16-CV-880
)	
KAREN BLAIR, et al.,)	
)	
Defendants.)	

Deposition of: OFFICER ADAM GROVES

Pursuant to: Notice

Date and Time: Tuesday, September 26, 2017
9:05 a.m.

Place: Office of Columbus
City Attorney
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Columbus, Ohio 43215

Reporter: Wendy Haehnle
Notary Public - State
of Ohio

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Also Present:

19

20 Dale K. Phillips, II

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1 I N D E X

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3 OFFICER ADAM GROVES PAGE

4 EXAMINATION BY MS. BRATTON 4

5

6 EXHIBITS MARKED REFERENCED

7	PLAINTIFF'S EXHIBIT 2	-	29
	PLAINTIFF'S EXHIBIT 3	-	27
8	PLAINTIFF'S EXHIBIT 16	-	46
	PLAINTIFF'S EXHIBIT 18	-	34
9	PLAINTIFF'S EXHIBIT 28	33	33
	PLAINTIFF'S EXHIBIT 29	44	45
10	PLAINTIFF'S EXHIBIT 30	53	54
	PLAINTIFF'S EXHIBIT 31	73	74
11	PLAINTIFF'S EXHIBIT 32	77	-
12	DEFENDANTS' EXHIBIT 1	-	23

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1 OFFICER ADAM GROVES

2 a defendant herein, having been duly sworn, was
3 examined and deposed as follows:

4 EXAMINATION

5 BY MS. BRATTON:

6 Q. Good morning, Officer.

7 A. Good morning. How are you?

8 Q. Good, and yourself?

9 A. Oh, tired as heck.

10 Q. Can you state your name for the
11 record?

12 A. Adam Groves.

13 Q. And have you had your deposition taken
14 before, Officer Groves?

15 A. Have I had a deposition before today?

16 Q. Yes, ever before --

17 A. No. No. This is the first one.

18 Q. Okay. So kind of like trial -- you've
19 testified at trial?

20 A. Oh, yeah.

21 Q. Okay. So just speak up so the court
22 reporter --

23 A. Okay.

24 Q. -- can get everything that you're
25 saying.

1 If you don't understand a question that
2 I ask, just ask me to repeat it a different way
3 or --

4 A. Okay.

5 Q. -- if it's too long or convoluted or
6 what have you.

7 A. Okay.

8 Q. If, later on, you remember an answer or
9 you want to expound on something, just let me
10 know. We'll go back to it.

11 A. I will need bathroom breaks. I will
12 need that.

13 Q. That's fine. I was just about to say,
14 if you need a break, let us know.

15 A. Okay.

16 Q. There will be objections, most likely,
17 throughout. Unless your attorney says, do not
18 answer the question, she's objecting for the
19 record -- or she and I will have a discussion.
20 But you will still need to answer the question
21 unless --

22 A. Okay.

23 Q. -- she specifically instructs you not
24 to.

25 A. Okay.

1 MS. BRATTON: Here's Mr. Phillips.

2 BY MS. BRATTON:

3 Q. And is there any reason that you would
4 not be able to concentrate or to participate
5 today, medications or --

6 A. Oh, no.

7 Q. Okay. And have you reviewed any
8 documents, outside of anything that you've
9 discussed with your attorney, prior to coming
10 here today?

11 A. No. Uh-uh.

12 Q. Okay. Have you talked to any of the
13 other officers or witnesses prior to today about
14 your deposition?

15 A. Just that it keeps getting moved.

16 Q. Okay. Well, thank you for being
17 accomodating. Most of that was because of me.

18 A. Oh, it's okay. I know it happens.

19 Q. Okay. And can you let me know what
20 your current position is?

21 A. Police officer.

22 Q. Okay. With Columbus Police?

23 A. Yes.

24 Q. And how long have you been employed --

25 A. It will be seven years this December.

1 Q. And have you had any other law
2 enforcement outside of the Columbus Police?

3 A. No.

4 Q. Military experience?

5 A. Yes.

6 Q. Okay. And what was your millitary
7 experience?

8 A. National Guard.

9 Q. Okay. And what about your education?

10 A. OSU, four years, bachelor's degree.

11 Q. Okay. And how old are you?

12 A. Thirty.

13 Q. Okay. And in lieu of giving any
14 personal information to us --

15 A. Uh-huh.

16 Q. -- we will just go through your
17 attorney if we need you for trial.

18 A. Oh, that's fine.

19 Q. So you need to make yourself available
20 to counsel. Okay?

21 And can you let me know about your
22 training at the -- with the Columbus Police?

23 A. Six months; it goes anywhere from
24 accident investigations all the way through to
25 homicide investigations and anything in between.

1 Q. Okay. And how long were you in the
2 academy?

3 A. Six months.

4 Q. Okay. And then what about follow-up
5 trainings?

6 A. We had yearly trainings for defensive
7 tactics, legal. I'm trying to think what else.

8 Are you talking yearly qualifications
9 or just anything between -- anything else?

10 Q. Just any trainings.

11 A. I've done survivable conflict training,
12 writing U-10.128s, rifle training. I think
13 that's it.

14 Q. The defensive tactics trainings --

15 A. Yeah.

16 Q. -- what is that training?

17 A. It's a review, pretty much, surviving
18 fights when you're on the ground, on your feet,
19 different arm bars, pressure points. Pretty much
20 anything we're taught in the academy, it's a
21 refresher, every year, to go through it.

22 Q. Do you all -- is it like based out of a
23 book, or is it hand-to-hand and you try it on one
24 another?

25 A. We do it to each other.

1 Q. Okay.

2 A. Sometimes harder than others.

3 Q. And the legal training --

4 A. Yeah.

5 Q. -- what is the basis -- is that just a
6 refresher of --

7 A. Just keeping -- refresher, keeping
8 updated on the news that's in the system now.

9 Q. Okay.

10 A. So if there's an update to law, we
11 review that.

12 Q. Okay. And updates to law, do you all
13 get e-mails or memos? How do you -- or do you
14 just get the refresher once a year in training?

15 A. It's not legal updates -- a year.

16 Q. Okay.

17 A. And we can just look them up and read
18 them. And it's like every few months or whatever
19 they send it out. I don't know in particular
20 what dates, but they just send it out whenever
21 they get it.

22 Q. Okay. And you all have policies,
23 outside of how you're trained, to deal with the
24 defensive tactics? You all have policies on use
25 of force as well --

1 MS. LLOYD: Again, I'm just going to
2 object to the qualification of outside the
3 way you're trained.

4 BY MS. BRATTON:

5 Q. You can answer --

6 A. Oh, okay.

7 Q. -- the question.

8 A. I was going to wait.

9 We're just trained -- or trained -- I'm
10 not sure what you mean by outside. Like whatever
11 we're taught in the academy is what we're kept
12 teaching.

13 Q. So -- so maybe that's the question.
14 The policy -- is your defensive tactic trainings
15 written down as a policy, or do you have policies
16 that are specific to use of force?

17 MS. LLOYD: Objection as to form.

18 A. I guess I'm confused what you're
19 asking.

20 BY MS. BRATTON:

21 Q. So you -- you get training on defensive
22 tactics --

23 A. Right.

24 Q. -- you said.

25 A. Right.

1 Q. They teach you arm bars --

2 A. Right.

3 Q. -- and all of that.

4 Is there -- are there policies about
5 when you can use those --

6 A. Oh, yeah.

7 Q. -- defensive tactics?

8 A. Sorry. Yes.

9 Q. Okay. And where do you find those
10 policies?

11 A. They're in our -- I think it's the SOP
12 book.

13 Q. Okay. And are there policies --

14 A. There's also a directive about it,
15 too.

16 Q. Okay. And is that directive the level
17 0, 1, 2, 3 --

18 A. Yes. It goes from 0 up to 8.

19 Q. Okay. And within that spectrum is the
20 use of mace?

21 A. Yes. Level 2.

22 Q. Okay. And how are you supposed to
23 deploy mace?

24 A. Spray it.

25 Q. Is -- is there a policy or best --

1 well, let me know, first, are there policies
2 about how you use it, like close to someone's
3 face or actually in someone's eyes or how far
4 away?

5 A. I don't recall at this time like what
6 the exact distance is.

7 Q. Okay.

8 A. But when we spray, we spray to the
9 face.

10 Q. Okay. And do you -- I know you don't
11 recall what the distance is, but do you recall
12 whether or not there is a distance, best
13 practices or requirement?

14 A. There is, but I just don't know the
15 exact number, what it is.

16 Q. Okay. And what about a policy or best
17 practice of how you deploy it? So do you keep
18 your hand on it and just continuously deploy it
19 or --

20 A. Uh-uh. It's supposed to be a
21 one-second burst, like one, one thousand.

22 Q. Okay. And then if it doesn't work, you
23 do it again or --

24 A. Uh-huh.

25 Q. Okay. So in one-second-burst

1 increments?

2 A. One thousand. If it's still -- the
3 person's still fighting -- another one if you
4 want to.

5 Q. Okay.

6 A. Or if you have to keep moving up, keep
7 moving up.

8 Q. Okay. And does the mace bottle, does
9 it stop on its own, like do you have to like -- I
10 don't want to say reload it. But does an officer
11 have the ability to continuously press it down if
12 they want to, or does -- is there some
13 mechanism that makes you kind of --

14 A. Stops after a second.

15 Q. -- makes you reload after one, one
16 thousand?

17 A. It doesn't reload. Once you press
18 it -- once you lift up, it's done.

19 Q. Okay. So an officer could hold it down
20 longer than the one --

21 A. Yes.

22 Q. -- one thousand, count?

23 Okay. And are you all taught that you
24 are never to use force as punishment?

25 A. Yes.

1 Q. Okay. And I'm assuming that you've
2 seen Mr. Phillips before?

3 A. Yes.

4 Q. And you recognize him to be a black
5 male?

6 A. Now I know that. But before, we
7 thought he was white.

8 Q. Okay. And on September 15th, 2014, you
9 were in the uniform of the day?

10 A. Not this uniform but the --

11 Q. Okay.

12 A. -- pants and shirt, the other
13 uniform.

14 Q. Okay. And was that the department
15 standard uniform at that time?

16 A. Yes.

17 Q. Okay.

18 A. It still is. This is just a bike
19 uniform.

20 Q. Okay. And that uniform, was it like a
21 white shirt and --

22 A. White shirt, the pants.

23 Q. Okay. And you were -- what was your
24 detail, do you remember?

25 A. CRT, community response team.

1 Q. Okay. And are the CRT vans -- they're
2 vans, correct?

3 A. We don't drive vans in CRT.

4 Q. Okay. Was it a police cruiser or --

5 A. What I was driving?

6 Q. Yes.

7 A. Yes. It was a cruiser.

8 Q. Okay. And are the cruisers equipped
9 with cameras?

10 A. At that time, I don't remember, but I
11 don't think CRT had cameras in their cars at that
12 time.

13 Q. Okay. What about microphones?

14 A. If there's no camera, there's no
15 microphone.

16 Q. Okay. And what were your duties in
17 that particular unit that day?

18 A. Be proactive, go after anything that
19 the community has issues with.

20 So Hilltop is what I normally patrol.
21 So when I went to CRT, I focused on the Hilltop,
22 with narcotics, prostitution, gangs. Anything
23 that bothers the community, that they tell us, we
24 deal with.

25 Q. Okay. And are you still on that

1 assignment now?

2 A. No. That was a temp assignment for
3 like 60 or 90 days, something like that.

4 Q. Okay. And do you remember how far away
5 you were when you got the call that a burglary
6 was in progress?

7 A. I think I was at 19th precinct
8 substation on Sullivant and Belvidere.

9 Q. Okay. About how far is that away;
10 miles?

11 A. It's not -- it's far, but not that far.

12 Q. Okay.

13 A. As far as exact distance, I have no
14 idea.

15 Q. Okay.

16 A. But it took me a minute or two to get
17 there.

18 Q. Okay. And what was the street again?
19 19th and --

20 A. 19th precinct.

21 Q. 19th precinct. Okay.

22 A. Yeah. The street -- it's Sullivant and
23 Belvidere.

24 Q. Okay. And can you tell me what
25 happened when you got the call?

1 A. I honestly don't remember. It's over
2 three years ago. So I'll try to remember as best
3 I can.

4 The call went out. And I can't
5 remember who got on the air. I think somebody
6 said they had a car near a location or something
7 like that. And so I get there. I respond to
8 help out as best I can.

9 I'm -- honestly, it's three years ago.
10 I'm trying to remember.

11 Q. Do you remember whether or not you all,
12 at the substation, kept your radio running so
13 that you could --

14 A. Our radios on?

15 Q. Yeah, so that you could hear calls --

16 A. Oh, yeah.

17 Q. -- coming in?

18 A. Uh-huh.

19 Q. Okay. So then you could hear like the
20 description of suspects and --

21 A. Sometimes we hear it, sometimes we
22 don't. And we ask them to reair, or we look at
23 our computer as we're driving there.

24 Q. Okay. Do you remember whether you did
25 that in this case?

1 A. I have no idea. Usually, I keep asking
2 them as I'm on my way there --

3 Q. Okay.

4 A. -- who was that again? What is it?

5 Q. Okay.

6 A. How many?

7 Q. So that's your normal practice is to
8 ask how many suspects --

9 A. We ask radio, we look at our computer,
10 we have a partner. We ask them, hey, what did
11 they say.

12 Q. Okay. And why do you do that?

13 A. Just so I can keep in my head who it is
14 that we're looking for, how many, and what we're
15 dealing with.

16 Q. Okay. And when you got there, do you
17 remember anything about that?

18 A. Not really.

19 Q. Do you remember anything about your
20 interaction with Mr. Phillips?

21 A. Bits and pieces.

22 Q. Okay. What do you remember?

23 A. He was driving. And I think he was
24 driving a truck or an SUV. I think it was a
25 truck. Karen was talking to him. Jean was on

1 the other side, talking to the chick on the
2 passenger side. It was dark out.

3 I think we were at Sullivant and
4 Harris, I think; is that right?

5 Q. Yeah.

6 A. Sullivant and Harris.

7 Q. Uh-huh.

8 A. And the burglary was about the building
9 next door, where he was -- I don't know if he was
10 parked on the street or what he was doing; unless
11 he stopped to -- I really don't know. But he was
12 on the street, on Harris, north of Sullivant.
13 I'm trying to think.

14 I can't remember if I went to the
15 passenger side first, to see if Jean needed help,
16 or whichever way I went.

17 I evenutally made my way over to where
18 Karen was with Dale; talked to him, told him I
19 needed him to step out so we could detain him to
20 figure out if he was part of the burglary at this
21 building right next door.

22 And then he like -- I think his -- I
23 don't know, three years ago, I'm still trying to
24 think -- left foot, I think, went to the
25 pavement. And part of his body was out. Half

1 his body was out, the other half was in the truck
2 kind of.

3 I grabbed his left arm -- left arm.
4 And that's when he tensed up. And I can't
5 remember what we said to each other then, but it
6 went south from there.

7 And I just kept yanking on his arm,
8 trying to get him out of the truck. I think the
9 truck was still on. And the thing that was going
10 through my head is, I'm not dying here. I'm not
11 going to get truck (sic) by a freaking truck.

12 And I don't know what he's got in his
13 truck. I don't know if he's going to pull
14 something on me. I don't know if he's going to
15 pull me in. I have no idea; playing tug of war,
16 trying to get him away from his truck.

17 I took a spin with him, trying to get
18 him in custody. He was a lot stronger than I
19 was. Somehow we get to the ground. I'm on his
20 right side. He wasn't giving up his right arm.
21 And I think other people were on his left side
22 and on his legs.

23 And then I'm trying to get his right
24 arm. And I know I sprayed the mace, and then,
25 eventually, got his right arm out. And then we

1 got him in the cuffs.

2 Q. Okay. What is your training about when
3 to take a potential suspect out of the car, when
4 to remove them from a car?

5 A. When we need to detain him --

6 Q. Yeah.

7 A. -- for an investigation.

8 Q. Yes.

9 And are there certain times when you
10 leave individuals in a car when you're
11 investigating?

12 A. Well, if we're at a traffic stop and we
13 don't want them to get out of the car, we have
14 them stay there, because we know where they're
15 at, if we don't want them out and moving around.

16 Q. Okay. And so what was the reason to
17 remove Mr. Phillips?

18 A. To get him away from the girl, because
19 we were going to separate them both, put them in
20 different cruisers to see what's going on.

21 Because I think we had three people
22 that were involved. And eventually, once we got
23 him out of the car, Micah took off running.

24 There was another chick inside that
25 building. I think she had warrants or something

1 like that.

2 Q. Did -- I'm sorry.

3 A. Oh, no. Go ahead.

4 Q. Did Officer Byrne let any of the other
5 officers there know that she had -- in her
6 conversation with the woman she was talking to,
7 that she had cleared her of involvement in the
8 burglary?

9 A. Did she let us know at the scene that
10 she was good to go?

11 Q. Did she let you know ever, wherever it
12 was?

13 A. Oh, not that I recall.

14 Q. Okay. And so what is your policy about
15 getting -- once you get an individual out of the
16 car --

17 A. Uh-huh.

18 Q. -- how do you -- what's the policy
19 about how you remove them from the car?

20 A. Hold on to their arm, escort them out.
21 We like to stand them in the doorjamb, away from
22 us, so they don't turn and fight us, so we have
23 complete control when we hold onto them.

24 Q. Okay. Do you let them know, hey, I'm
25 going to touch you now?

1 A. Oh, yeah. We tell them --

2 Q. Okay.

3 A. -- hey, you're being detained, we're
4 getting you out, we're going to put you in cuffs,
5 detain you, and we're going to talk about what's
6 going on.

7 Q. Okay. And when you were getting
8 Mr. Phillips -- I'm going to show what's been
9 marked as Defendant's Exhibit 1.

10 A. Okay.

11 Q. Is this how Mr. Phillips began to get
12 out of the car?

13 A. I don't remember at this time. I mean,
14 he was getting out that way. As far as which
15 hand was grabbing the handle and which hand
16 was -- I have no idea his position. But he was
17 getting out that way.

18 Q. Okay.

19 A. And one foot touched the ground, and
20 half of his body was kind of still in, like he
21 was unsure if he was going to come out or not.

22 Q. Okay. And when he started getting out
23 he had his hand on the handle, correct?

24 A. I don't remember if it was when I
25 grabbed his arm or as he was going -- I don't

1 remember.

2 Q. Okay. And when Mr. Phillips was
3 getting out of the car, at that time he was just
4 being detained, but he wasn't under arrest; is
5 that accurate?

6 A. He was being detained.

7 Q. Okay. But he wasn't under arrest at
8 that time?

9 A. Not at that time, no. Because we were
10 trying to figure out if he was involved or if he
11 was there to pick up Micah. We don't know.

12 Q. Okay. And when you started giving
13 Mr. Phillips the commands, get out of the car,
14 you're being detained, how much time for -- well,
15 let's start -- do you remember what your initial
16 command to him was?

17 A. No idea.

18 Q. Okay. Do you remember how much time
19 you gave him to comply with the commands?

20 A. No idea.

21 Q. Okay. How important is it for an
22 officer, when they get on scene, to know who
23 dispatch has aired that they're looking for?

24 MS. LLOYD: Objection.

25 A. Do what now?

1 BY MS. BRATTON:

2 Q. How important to an officer -- so how
3 important would it be to you --

4 A. Yeah.

5 Q. -- when you arrive on a scene, to have
6 listened and respond to what dispatch has aired;
7 so age, weight, height, hair color, clothing?
8 How does that factor for you?

9 MS. LLOYD: Objection as to form.

10 A. Do I answer?

11 BY MS. BRATTON:

12 Q. Uh-huh.

13 A. Do I just -- okay.

14 Q. Yes.

15 A. I'm still trying to understand what
16 you're asking. So how important is it to me, as
17 far as --

18 Q. Yeah. So do you listen to dispatch --

19 A. Yeah.

20 Q. -- when they come over -- we talked
21 about that.

22 A. Yeah.

23 Q. And dispatch gives you a potential
24 suspect's race, maybe about 40 or 50 --

25 A. Uh-huh.

1 Q. -- so some estimate of age --

2 A. Yeah.

3 Q. -- clothing description.

4 How important is that information to
5 you when you arrive on scene?

6 MS. LLOYD: Objection as to form.

7 A. It is. But a lot of times, dispatch go
8 off -- a lot of times, they go off what people
9 call in and say. A lot of times, the public is
10 off on a few details: age, weight, car, their
11 clothing, race, anything.

12 BY MS. BRATTON:

13 Q. Okay. So do you all then ignore what
14 dispatch is saying, or do you --

15 A. No. I mean, we use that. But, again,
16 if we go off of what the public says, then it's
17 like playing the telephone game. What they tell
18 radio and what radio tells us could be
19 different.

20 Q. Do you remember -- I'm going to assume
21 no, because we kind of assessed -- but you said
22 you don't remember what radio aired?

23 A. No. Not exactly, no.

24 Q. Okay. Let's --

25 A. Could I do a bathroom break real quick?

1 Q. Uh-huh.

2 (A recess was taken from 9:26 to 9:28.)

3 BY MS. BRATTON:

4 Q. I am going to play for you the radio
5 dispatch.

6 A. Okay.

7 Q. It's already been marked as Plaintiff's
8 Exhibit 3.

9 (Audio was played.)

10 MS. BRATTON: And I'm going to play
11 Exhibit 3 at 22:45 and 32 seconds.

12 (Audio was played.)

13 BY MS. BRATTON:

14 Q. Were you aware, at the time, that
15 dispatch had said that all suspects were back
16 inside at the time Mr. Phillips' plates were run?

17 A. I don't remember.

18 Q. Okay.

19 A. There -- I will say, there is a lag of
20 of time between the call to dispatch, to us.
21 Whether it's like 20 or 30 seconds, I don't
22 know.

23 Q. Okay.

24 A. But there is a lag in time.

25 Q. Okay. Do you know whether Mr. Phillips

1 was stopped in the rear of the bar, on the side
2 of the bar?

3 A. I think he was on Harris. Because he
4 was in his truck -- so I think he was on
5 Harris.

6 Q. Okay. And do you know if that's the
7 rear or the side of the bar?

8 A. From what I best remember, the bar
9 was -- because that property is bulldozed now.
10 Harris is to the east of the bar, so it's on the
11 side.

12 Q. Okay. So then Mr. Phillips -- the
13 dispatch said rear, and Mr. Phillips was on the
14 side of the bar --

15 A. Yes.

16 Q. -- correct?

17 Okay. And do you remember the race of
18 the woman, Ms. -- Officer Byrne was speaking
19 with?

20 A. She was white.

21 Q. Okay. And the dispatch called in a
22 black woman, correct?

23 A. Well, she was inside the bar. Because
24 after we got Dale in the cruiser and Micah took
25 off running, I think it was me and Cazan went up

1 to the roof, looked through like a skylight and
2 started yelling out to somebody, to make
3 ourselves known. That's when a woman came in
4 view, and we told her to go outside.

5 Q. Okay. But the woman who was -- the two
6 people who were -- initially were stopped,
7 Mr. Phillips and --

8 A. Micah.

9 Q. -- the -- Micah --

10 A. Uh-huh.

11 Q. -- that is -- Micah is white or
12 black?

13 A. She's white.

14 Q. Okay. And do you remember whether she
15 had on shorts?

16 A. Oh, I have no idea.

17 Q. Okay. And if you could, open up the
18 exhibit binder and go to Exhibit 2.

19 A. Uh-huh.

20 Q. And then on the bottom there will be
21 some kind of Bates numbers down here. If you
22 would, go to page GB799. And is -- in the middle
23 of 799, under where it says Signature, would this
24 be your signature?

25 A. Yes.

1 Q. Okay -- and you're number 2651? Is
2 that your badge?

3 A. Uh-huh.

4 Q. Is that your badge?

5 Okay.

6 A. Yes. Sorry.

7 Q. All right. And so you wrote this
8 narrative summary?

9 A. For the 128 -- yes, I wrote that.

10 Q. Okay. And about midway through,
11 second paragraph, second -- third sentence,
12 Officer Cazan and Officer Groves physically
13 placed Mr. Phillips on the pavement while
14 struggling to control his arms.

15 Do you remember how you physically --
16 he was physically placed?

17 A. I have no idea. Because from what I
18 remember, I was on the upper part of his body and
19 Chad had his lower parts. I'm not sure what he
20 did. But we were able to get him on the
21 ground.

22 Q. Okay. And when he got on the ground,
23 do you remember whether you all placed him or
24 whether everybody just fell once --

25 A. I -- I don't remember.

1 Q. Okay.

2 A. Usually, we all just fall over.

3 Q. Okay. And then, let's see, the last
4 three sentences, Officer Groves then deployed a
5 one-second burst of the division-issued mace into
6 Mr. Phillips' face. He continued to pull his
7 arms in and rub his face on the ground.
8 Eventually, the officers were able to get him
9 handcuffed, and then he complied with the
10 officers' commands.

11 Those were your words that you typed?

12 A. Uh-huh.

13 Q. Okay. And that was September 16th of
14 2014?

15 A. Yep.

16 Q. So that was the day after the
17 incident?

18 A. What was the date on the video? Was it
19 the 15th?

20 Q. The 15th, uh-huh.

21 A. Yeah. We wrote it the next day --

22 Q. Okay.

23 A. -- or wrote it that night. Because --
24 what time did we arrest him? It could have been
25 past midnight.

1 Q. Okay.

2 A. It has a date of --

3 Q. Okay. So this would have been --

4 A. It still was the next -- oh, I'm sorry.

5 I'm sorry. Go ahead.

6 Q. This would have been like the immediate
7 report?

8 A. What do you mean?

9 Q. The first report that you wrote about
10 this incident.

11 A. As far as use of force?

12 Q. Yes.

13 A. Yes.

14 Q. Okay. Would there have been any
15 other -- anything else that you wrote that was
16 not use of force?

17 A. Not that I recall.

18 Q. Okay. Do you recall getting together
19 or speaking in a group with Officer Blair and
20 Sergeant Rector about what to charge Mr. Phillips
21 with?

22 A. I don't remember.

23 Q. Okay. You had a internal -- you had an
24 internal affairs interview, correct?

25 A. I don't remember.

1 Q. Okay.

2 A. You're going on three years now.

3 Q. I'm going to hand you what we will mark
4 as Exhibit -- let's see, what was -- I think we
5 were on 28.

6 (Plaintiff's Exhibit 28 was marked for
7 identification.)

8 BY MS. BRATTON:

9 Q. Handing you what's been marked as
10 Exhibit 28, and if you could, turn --

11 MS. LLOYD: Excuse me just a second.

12 BY MS. BRATTON:

13 Q. So Exhibit 28 is a transcript of your
14 internal affairs interview.

15 MS. LLOYD: Okay. If I could just add,
16 for the record, I believe, as you've
17 represented, this is a transcript that
18 counsel has had prepared --

19 MS. BRATTON: Correct.

20 MS. LLOYD: -- of the -- of the
21 interview?

22 MS. BRATTON: Yes.

23 MS. LLOYD: And just for the record, we
24 have not had any opportunity to review it to
25 determine its accuracy.

1 MS. BRATTON: Yes.

2 MS. LLOYD: While I realize you say it
3 is prepared by a recorder.

4 MS. BRATTON: Uh-huh.

5 MS. LLOYD: So it may be accurate, but
6 we've never seen it before.

7 MS. BRATTON: Okay.

8 BY MS. BRATTON:

9 Q. So let me -- I'm going to put in a
10 disk. Okay. And this has been previously marked
11 Exhibit 18.

12 A. Okay; or 28?

13 Q. The video --

14 A. Okay.

15 Q. -- or I'm sorry -- the audio.

16 (Audio was played.)

17 BY MS. BRATTON:

18 Q. Did you recognize that to be you --

19 A. Yes, that was me.

20 Q. -- speaking?

21 Okay. All right. If you can, turn to
22 page 6 of --

23 A. Uh-huh.

24 Q. -- Exhibit 28, the transcribed
25 interview with Sergeant Johnson, IAB interview

1 with Sergeant Johnson, and on line 11, you state
2 that you asked Mr. Phillips to step out of the
3 vehicle, and he asked you why.

4 To your knowledge, prior to you telling
5 him that you were investigating the burglary and
6 you wanted to further investigate what was going
7 on, do you know whether Mr. Phillips knew he was
8 being stopped for a burglary?

9 MS. LLOYD: Again, objection as to
10 form, as to asking him what Mr. Phillips
11 knew.

12 A. Are you asking, prior to me going out
13 there and saying those things --

14 BY MS. BRATTON:

15 Q. Yes.

16 A. -- did I know what he knew?

17 Q. Yes. What was your knowledge? Did you
18 know or not whether someone else had informed
19 Mr. Phillips --

20 A. I -- I don't know.

21 Q. Okay. And when you told him, we're
22 investigating a burglary, do you remember what
23 his response was to you?

24 A. Not his exact response, no.

25 Q. Okay. Do you remember whether he said

1 something along the lines of, I'm not a
2 burglar?

3 A. No.

4 Q. And who was with you at that time?

5 A. On the side of truck, with --

6 Q. Yes, when you told Mr. Phillips you
7 were investigating a burglary and you needed to
8 further investigate what was going on.

9 A. Just me and Blair.

10 Q. Okay. And you say that he put -- on
11 lines 19 through 23, He put one foot out of the
12 truck door, realized it wasn't a good idea for
13 him.

14 What did -- what made you come to the
15 conclusion that Mr. Phillips realized it wasn't a
16 good idea for him?

17 A. He stopped.

18 Q. Okay. And then how long did you give
19 him to continue coming out?

20 A. I don't remember.

21 Q. Do you remember whether you grabbed him
22 immediately?

23 A. As he was coming out of the truck?

24 Q. Yes.

25 A. I know I grabbed his arm, but I don't

1 remember at what point, if it was right away or
2 as he was getting out or as he put the left
3 foot -- I don't remember.

4 Q. Okay. And on page 7, lines 23 to 25,
5 and then going through to page 8, line 1, you
6 say, and he put his door -- his door opening, he
7 put his left arm and hand on the door and he put
8 his right hand up on that handle. He had that
9 on -- he had his hand on the handle as he was
10 getting out; correct?

11 If you need to read back some --

12 A. What was the question again?

13 Q. As Mr. Phillips was getting out --

14 A. As he was getting out.

15 Q. -- he had his hand on the handle, on
16 the upper handle. Because I guess --

17 A. You're talking about this one, right?

18 Q. -- there were two handles.

19 Yes, the door frame handle.

20 A. Right. Yeah.

21 Q. Okay. Is that, yes, he had his --

22 A. You're asking, as he was getting out he
23 put it up there?

24 Q. Yes.

25 A. Based on this, yes.

1 Q. And if you could, turn to page 11. Can
2 you explain to me how the mace comes out?

3 So there's a one-second burst. Is
4 there -- and I don't know if you all have ever
5 seen this --

6 A. I'm not going to spray it, but I'll
7 show you.

8 Q. Okay.

9 A. So it comes out this nozzle right
10 here.

11 Q. Yes.

12 A. Okay? As far as if it's a flat spray
13 or mist or whatever, I don't know.

14 Q. Okay.

15 A. But you put your thumb in there and
16 push down.

17 Q. Okay.

18 A. And then it comes out.

19 Q. Okay. So then when you do the
20 one-second burst, is there a significant amount
21 that comes out?

22 A. Oh, yeah.

23 Q. Okay. So it might --

24 A. It burns --

25 Q. I'm sorry?

1 A. We've been struck with it before, and
2 it burns.

3 Q. Okay.

4 A. There's a lot of it.

5 Q. Okay. So you, on line 11, number 2,
6 where you said, and as I was macing him he kept
7 moving his face across the payment, do you
8 remember was it one -- one burst or more?

9 A. Based on this, I think it said one.
10 But I don't remember.

11 Q. Okay.

12 A. He did move his face away, because he
13 knew -- I can't remember if I yelled out, mace.
14 I can't remember what I yelled out, but he knew
15 it was coming. That's why he kept doing this to
16 not get sprayed with it.

17 Q. Okay. And when he went down to the
18 ground, he went down face forward, correct?

19 A. I don't remember if it was side, face,
20 back, or what.

21 Q. Okay. And if you turn to page 18,
22 lines -- lines 13 and 14 --

23 A. Uh-huh.

24 Q. So when you were getting Mr. Phillips
25 out of the vehicle, it looks like you said it was

1 only you and Chad, which was Officer Cazan?

2 MS. LLOYD: Again, objection as to
3 form.

4 I think that's a mischaracterization of
5 this -- where this discussion is at this
6 point in time.

7 A. Initially, it was me and Karen.

8 BY MS. BRATTON:

9 Q. Yes.

10 A. And what was your question? When I was
11 actively pulling him out of the vehicle --

12 Q. Yes.

13 A. -- is that what you're asking?

14 Q. Yes.

15 A. As me and Chad were physically pulling
16 him out of the vehicle.

17 Q. Okay. So Officer Blair then --

18 A. She was messing with his fingers on the
19 handle, trying to pull his fingers off, to get
20 him to get away from that handle.

21 Q. Okay. So Officer Blair was on the
22 handle. So let's go -- I'm sorry -- line 10,
23 Sergeant Johnson asked you, What did Karen Blair
24 do, Officer Blair? At that point, then, did --
25 then, you didn't even notice?

1 And your response was, It was me and
2 Chad. It was just me and Chad.

3 A. Right. Because before that, we were
4 talking about -- I was saying he had his legs and
5 I had his upper half. So that's what I was
6 referring to --

7 Q. Okay.

8 A. -- versus his whole body, like what
9 were -- get his body out of there.

10 Q. Okay. If you turn back to page 17 --

11 A. Uh-huh.

12 Q. -- and start at line 5, it looks like
13 this is where Sergeant Johnson starts to take you
14 back through what happened, from the time you got
15 there to the scene --

16 A. Uh-huh.

17 Q. -- and Dale had his door open.

18 If you could, read from line 5. And
19 you can read to yourself or out loud if you want.
20 But from line 5 on page 17 --

21 A. Uh-huh.

22 Q. -- to line 14 on page 18.

23 A. Okay.

24 Q. And from there, you never mention, from
25 the time Sergeant Johnson starts to go through

1 when you got to the scene he had his door open,
2 to when he asked you, on page 18, starting at
3 line 10, at what point did Karen Blair do -- in
4 this transcript, on those two lines, 17 and 18,
5 did you ever mention Officer Blair?

6 MS. LLOYD: Again, I'm going to object
7 to the form.

8 The -- the transcript is -- assuming it
9 is accurate, of course, is what it is. The
10 lines are exactly there. If you're asking
11 him what's on the page --

12 A. What's the question again?

13 BY MS. BRATTON:

14 Q. Did you -- line 17 --

15 A. Uh-huh.

16 Q. -- starting at -- oh, I'm sorry --
17 page 17 --

18 A. Yes.

19 Q. -- starting at line 5, when Sergeant
20 Johnson --

21 A. Uh-huh.

22 Q. -- goes back through what happened from
23 the time you arrived to the time Mr. Phillips was
24 on the ground.

25 A. Okay.

1 Q. When you just reread your testimony --
2 or your interview --

3 A. Uh-huh.

4 Q. -- did you mention anything Officer
5 Blair was doing?

6 A. Based on this, no.

7 Q. Okay. And you -- after he asked about
8 Karen Blair, you say it was just you and Chad; is
9 that correct?

10 MS. LLOYD: Again, objection as to
11 form.

12 The question speaks for itself, and
13 that's a mischaracterization of the
14 question. The question specifically says,
15 What did Karen Blair do, Officer Blair, at
16 that point.

17 A. Question again? I'm sorry.

18 BY MS. BRATTON:

19 Q. You told him -- you, in response to
20 Sergeant Johnson --

21 A. Correct.

22 Q. -- you said it was just you and Chad;
23 is that correct?

24 A. Correct --

25 Q. Okay.

1 A. -- based off of what he was -- again,
2 to point out Chad had his legs, I had his upper
3 half.

4 Q. Okay. And then the very next one says
5 that, then you get him onto the ground; correct?

6 Okay. All right. So then you get him
7 onto the ground.

8 A. That's what he said.

9 Q. Okay. So prior to that, you were
10 discussing it was you and Chad, prior to getting
11 him on the ground?

12 MS. LLOYD: Objection as to form.

13 The testimony speaks for itself.

14 A. We're talking about I've got his upper
15 half, he's got his lower half. And based on me
16 and him together, we got him on the ground.

17 BY MS. BRATTON:

18 Q. Okay. And let's see. And then on page
19 20, lines 4 and 5, Mr. Phillips did not resist
20 after he was handcuffed. Would that be an
21 accurate --

22 A. It said he stopped.

23 Q. Okay.

24 (Plaintiff's Exhibit 29 was marked for
25 identification.)

1 BY MS. BRATTON:

2 Q. Okay. I am going to give you what has
3 been marked Exhibit 29. And it is your trial
4 testimony from the first trial.

5 Do you remember testifying?

6 A. First one -- but I don't remember
7 anything that was -- it was just --

8 Q. Okay. And, again, we're going to look
9 at the numbers on the bottom --

10 A. Okay.

11 Q. -- the GB numbers.

12 If you go to GB339, and starting at
13 line 1, you couldn't tell -- And then what
14 happened after you couldn't tell if there were
15 any weapons in the vehicle?

16 And your answer was, We asked him to
17 step out of the vehicle.

18 The question the prosecutor posed was,
19 did he comply with your request to step out of
20 the vehicle?

21 And you said, Partially. And then you
22 are asked to describe what you meant by
23 partially.

24 And your answer was, After about a
25 minute or two of us telling him to step out of

1 the vehicle.

2 Do you remember what the conversation
3 was for a minute or two?

4 A. No.

5 Q. Okay.

6 A. I'm sure it would be something to do
7 with him being detained, eventually, from
8 there.

9 Q. And when you first came up, do you
10 remember having a conversation with Officer Blair
11 before you engaged Mr. Phillips?

12 A. No.

13 Q. Okay. And we'll switch videos again.

14 I'm going to show you what's been
15 previously marked as Plaintiff's Exhibit 16 which
16 is the cruiser cam video.

17 (Video was played.)

18 BY MS. BRATTON:

19 Q. I'm going to stop it at 22 hours,
20 47 minutes, and 20 seconds.

21 Do you recognize this as you walking up
22 to the passenger side of Mr. Phillips' car?

23 A. I don't know if that's me or not.

24 Q. Okay.

25 (Video was played.)

1 BY MS. BRATTON:

2 Q. Okay. Do you know if that was you?

3 Are you able to see the person walking up?

4 A. I think that was Cazan.

5 Q. Okay.

6 (Video was played.)

7 BY MS. BRATTON:

8 Q. So based on Officer Cazan walking up,
9 do you recognize whether or not that was you?

10 A. That was me.

11 Q. Okay. So let me go back, now that we
12 know where you were.

13 A. Okay.

14 (Video was played.)

15 BY MS. BRATTON:

16 Q. I'll stop it at 22 hours, 47 minutes,
17 and 35 seconds.

18 You first ask Mr. Phillips to get out
19 of the car on his driver's side, do you
20 remember?

21 A. I don't know if I talked to him on that
22 side first or that side. I don't remember --

23 Q. Okay.

24 A. -- what point I talked to him first.

25 Q. Okay. Let's see.

1 (Video was played.)

2 BY MS. BRATTON:

3 Q. I don't know if you paid attention to
4 the time codes, but it looks like you walked
5 up -- and I can rewind it if you want me to --
6 walked up on the passenger side of Mr. Phillips'
7 car at approximately 22 hours, 47 minutes, and
8 18 seconds.

9 A. Okay.

10 Q. And then you can clearly see
11 Mr. Phillips in handcuffs, being walked to a
12 cruiser, at 22 hours, 49 minutes, and 20 seconds.

13 So the entire incident was actually
14 less than two minutes from the time you
15 approached his vehicle.

16 A. Okay.

17 Q. Would that be accurate?

18 A. Based on the video, yes.

19 Q. Okay. Okay. And if you go to
20 line 18 of the same page, GB339, you testified
21 that Mr. Phillips was trying to pull you with him
22 after he pulled his arms to his chest --

23 A. Uh-huh.

24 Q. -- and was pulling into the vehicle; is
25 that correct?

1 A. Yes.

2 Q. Okay. And is there a reason why you
3 didn't tell Sergeant Johnson that he attempted to
4 pull you into the vehicle?

5 A. I don't remember him asking me.

6 Q. Okay.

7 A. Yeah. I don't think he asked me.

8 Q. Okay. And here, did the prosecutor ask
9 you about him pulling you into the vehicle?

10 A. Looks -- the prosecutor asked about
11 weapons in the vehicle, and then he asked if he
12 complied with my request to step out of the
13 vehicle, on that page.

14 Q. Okay. But nothing specifically about
15 him pulling you --

16 A. I don't -- I'm not sure if he
17 specifically asked if he was pulling me into the
18 vehicle or not. I don't know.

19 Q. Okay. So what I see here is, he asked,
20 what happened next, after you couldn't tell if
21 there were any weapons in the vehicle.

22 And your answer was, We asked him to
23 step out of the vehicle.

24 And then the next questions was, did he
25 comply with your request to step out of the

1 vehicle?

2 And your answer was, Partially.

3 And then the prosecutor asked you, And
4 describe what you mean by, partially.

5 And then in that description, would you
6 agree that you weren't asked any more questions
7 prior to you saying that he tried to pull you
8 with him?

9 A. No more questions before I gave that
10 long answer?

11 Q. Correct.

12 A. Right. There's no more questions --

13 Q. Okay.

14 A. -- before I gave that long answer.

15 Q. Okay. And in the trial you also
16 testified, looking at line 9, that Mr. Phillips
17 grabbed ahold of the handle on the truck door
18 with his right arm. He then took his left foot
19 out and stepped his left foot to the ground,
20 correct?

21 A. Correct.

22 Q. Okay. And if you would, turn to GB343.

23 A. (Witness complies.)

24 Q. Okay. And line 5 -- this was after you
25 stated Officer Cazan was trying to go for his

1 leg -- He eventually got control of his legs and
2 took him down to the ground. At that point, he
3 went on his belly and again put his arms
4 underneath him.

5 This is at that point when you all fall
6 or end up on the ground, correct?

7 A. Uh-huh.

8 Q. Okay. And do you know whether or not
9 he fell on his arms, he tried to break his fall
10 with his arms?

11 A. I don't --

12 MS. LLOYD: Again, objection as to
13 mischaracterization of testimony. I think
14 it says what it says right there, as to the
15 description.

16 A. I don't remember --

17 BY MS. BRATTON:

18 Q. Okay.

19 A. -- exactly.

20 Q. But at -- he did go down on his belly;
21 is that correct?

22 It says, At that point, he went on his
23 belly. So would that be accurate testimony?

24 A. Based on line 5, yes.

25 Q. Okay.

1 A. It says, At that point, he went on his
2 belly.

3 Q. Okay. And if you could, turn to GB354,
4 line 19. And this looks -- if you go up to the
5 top of line 3 it says, Cross-Examination. So it
6 looks like you're -- it's switching up over from
7 the prosecutor asking you questions to
8 Mr. Phillips' attorney, Mr. Hemminger.

9 A. Okay.

10 Q. It starts at line 4.

11 So Mr. Hemminger asked you, Okay. And
12 so at that point in time -- and if you look
13 above, it's when he's partially exiting the
14 vehicle -- he is cooperating and he's peacefully,
15 partially exiting the vehicle, correct.

16 And your answer was, Correct.

17 A. On line 19 and 20?

18 Q. Correct. And probably you want --
19 because he's referencing line 16. So if you want
20 to start reading at line 16 --

21 A. Okay. Sorry what was the question
22 again?

23 Q. Initially, when Mr. Phillips -- prior
24 to you touching Mr. Phillips he was exiting the
25 vehicle peacefully?

1 A. Based on the testimony, yeah.

2 Q. Okay. And that's your testimony?

3 A. Uh-huh.

4 Q. Okay. Yes?

5 A. Yes. Sorry.

6 Q. Okay.

7 A. Sorry. They tell me that all the time
8 in court, too. Say yes, say no.

9 Q. I do it, too.

10 And then, again, on the next page,
11 GB355, line 21, Mr. Hemminger asked you, he was
12 exiting and holding a hand rail of some sort,
13 right?

14 And you respond, With his right hand,
15 yep.

16 A. Yes.

17 Q. Okay.

18 MS. BRATTON: All right. And if you
19 don't mind, I will take a bathroom break.

20 THE WITNESS: Thank you.

21 (A recess was taken from 10:21 to
22 10:24.)

23 (Plaintiff's Exhibit 30 was marked for
24 identification.)

25 BY MS. BRATTON:

1 Q. So looking at Exhibit 30 -- and this is
2 the trial transcript, just your portion --

3 A. Okay.

4 Q. -- from the second trial.

5 A. Number two.

6 Q. Yes, number two.

7 Okay. And, again, we'll look at the
8 numbers on the bottom, the GB numbers.

9 A. Okay.

10 Q. Okay. And if you could, go to GB93.
11 And you were asked -- lines 20 and 21 -- at the
12 time that you went up to the truck, you believe
13 that the individuals may have been involved in
14 the burglary that you had been called out to?

15 And you said yes.

16 What made you believe, when you got on
17 scene, that Mr. Phillips and Micah, or whomever
18 Officer Blair was talking to, were involved in
19 the burglary?

20 A. He asked the question, may have been.
21 And they were right next to the building where
22 these three individuals were supposedly carrying
23 stuff out, or whatever they were doing. And they
24 may have been involved.

25 And unless we ask questions and detain

1 them and investigate what's going on, then we
2 don't know. And so it's our duty to find out if
3 they are or not.

4 Q. So at that point in time, would it be
5 fair to say that their proximity to the building
6 was the reason?

7 A. That's one of them.

8 Again, we have -- what did they say in
9 the video? What did she say -- the radio? Was
10 it two males and a female?

11 Q. Two white males and a black female.

12 A. Okay.

13 Q. White male with a gray coat, black
14 female with shorts and an orange wrap on her
15 head.

16 A. Okay. So we have three individuals
17 involved. And it's -- at least two of them that
18 we were talking with, a female and a male, were
19 there. So we don't know if they're involved or
20 not.

21 A lot of times the public gets
22 information wrong.

23 Q. Okay. So just going to
24 specifics then --

25 A. Uh-huh.

1 Q. -- proximity -- there's one -- at least
2 one male and one female?

3 A. Uh-huh.

4 Q. Okay. Are there -- is there anything
5 else, at that time, that you're believing would
6 tie them to the burglary?

7 A. We don't know.

8 Q. Okay. So I'm -- I guess what I'm
9 trying to ask you is the -- you have to have a
10 basis to detain someone, correct?

11 A. Reasonable suspicion, yes.

12 Q. So I'm asking you, what was your
13 reasonable suspicion?

14 So right now, we have proximity, and
15 there's a male and a female. Was there any other
16 distinguishing characteristics of Mr. Phillips
17 and Micah, or the woman, that would give you the
18 reasonable suspicion to --

19 A. Not that I can recall at this time.

20 Q. Okay. And if you turn to GB94,
21 starting at line 7, you talk about -- you ask
22 Mr. Phillips to step out so that you could detain
23 him to further investigate the burglary.

24 The prosecutor asked, did he comply
25 with your order to step out of the vehicle?

1 You respond, At first, then he stopped.

2 Is that accurate so -- thus far?

3 A. Yes.

4 Q. Okay. And then the prosecutor asked
5 you, And what did he do to stop.

6 And then your answer, We got his door
7 open. He put his left foot down on the pavement.
8 And I had his left arm to guide him out so --
9 then turning to GB95, line 15 -- we could keep
10 control of the person. And he grabbed that
11 handle on the truck. That's when he tensed up.

12 Was your testimony here --

13 MS. LLOYD: Are you going to finish the
14 statement?

15 MS. BRATTON: No. I'm going to ask the
16 question.

17 MS. LLOYD: Okay.

18 BY MS. BRATTON:

19 Q. So was your testimony here that he had
20 his left arm -- that you had his left arm to
21 guide him out, and then he grabbed onto the
22 handle?

23 A. Put his left foot down on the pavement.
24 I had his left arm to guide him out. And he
25 grabbed the handle on the truck.

1 Your question was, did I grab his left
2 arm before he grabbed the handle?

3 Q. Yes. Is that what your testimony is
4 here?

5 A. Yeah. Based on what I said, yes.

6 Q. Okay. And if you go to GB98, starting
7 at line 10, the prosecutor asked you, Were you
8 able to see his hands -- his, Mr. Phillips' --
9 while this struggle was going on on the ground.

10 And your answer was, Just the right
11 side of his body. It was dark out, so I couldn't
12 tell what was happening on the left side of his
13 body.

14 Is that correct?

15 A. So line 10 through --

16 Q. 14.

17 A. -- 14?

18 Q. Uh-huh.

19 A. And I'm sorry. What was your question;
20 was I on his right side or left side?

21 Q. No. It was dark. You couldn't see --

22 A. Oh.

23 Q. -- at least a part of him; is that
24 correct?

25 A. It was dark out.

1 Q. Okay. And from the video, there are no
2 street lights directly where you all were?

3 A. No. Uh-uh.

4 Q. Okay. And were you aware that
5 Officer Blair almost handcuffed you? I think --

6 A. Oh, yeah. I remember that part.

7 Q. Okay.

8 A. Because I yelled out some -- I forget
9 what I yelled, but I was like, that's me.

10 Q. Okay.

11 A. Because there was a bunch of arms and
12 legs everywhere.

13 Q. Okay. So she actually did put them on
14 you --

15 A. She --

16 Q. -- or attempt to --

17 A. Somebody grabbed my left arm and kept
18 pulling it.

19 Q. Okay.

20 A. And I -- I kind of figured they were
21 trying to cuff me, because they thought my arm
22 was his.

23 Q. Okay. When did you find out it was
24 Officer Blair?

25 A. I didn't know. And for the longest

1 time I thought it was Jean that was doing it.

2 Q. Okay. Did they let go of you
3 immediately after you said, hey, that's me.

4 A. I can't remember if it was a second or
5 two or immediately. I don't remember the time.

6 Q. Okay. Do you remember if that was
7 before or after the mace?

8 A. I don't remember.

9 Q. Okay.

10 A. It all happened like -- it seemed like
11 it all happened at the same time. There was so
12 much going on --

13 Q. Okay.

14 A. -- a fast evolving situation. It
15 just -- so much was going on.

16 Q. Okay. So -- so this may help us answer
17 one of the earlier questions.

18 If you go to GB108, and line 12, the
19 prosecutor is asking you about Officer Cazan's
20 leg sweep or double-leg kick-down.

21 Do you see that?

22 A. Uh-huh. Yes.

23 Q. Okay.

24 A. I'm sorry.

25 Q. And then you respond to him you didn't

1 see what Officer Cazan did, you just know that
2 you all went down.

3 A. Yes. We just went down.

4 Q. Okay. And you -- and then
5 your testimony -- he asked you, did you all --
6 And you all go down, and Dale's face down on the
7 pavement, was your testimony earlier, correct?

8 And you said, Correct.

9 A. Yes.

10 Q. Okay. And when Mr. Phillips goes down
11 face down, how many people are on him, do you
12 remember?

13 A. I don't remember.

14 Q. Okay. Excuse me.

15 A. Yeah. Because this second trial was
16 two years, almost, from the initial date of the
17 incident, right.

18 Q. Yes. 8/2/16.

19 A. Okay.

20 Q. And if you turn to the next page,
21 GB109, you were -- on line 17 -- excuse me --
22 you're asked, How did you deploy the mace.

23 It looks like you read from a
24 transcript. Yes, a reading from a June 12
25 transcript. This would be line 17.

1 And the question is -- line 5,
2 question, How did you deploy the mace?

3 And your answer is, A couple of inches
4 away (sic) from his face.

5 A. I'm sorry. Was that a question?

6 Q. Yes. Is that --

7 A. Yes.

8 Q. Is that --

9 A. That's what he was reading. And that
10 was from the first trial. Is that what he was
11 referring to?

12 Q. Yes.

13 A. Okay.

14 Q. Okay. And mace is not to be deployed
15 directly in someone's eye; is that accurate?

16 A. We try to spray it in the face.

17 Q. Okay.

18 A. I mean, wherever it goes it's going to
19 affect the eyes and nose and everything.

20 Q. That was a horrible question on my
21 part.

22 The actual nozzle --

23 THE WITNESS: Did you get that in
24 there?

25 THE REPORTER: (Indicating.)

1 A. Sorry. Go ahead.

2 BY MS. BRATTON:

3 Q. No, you're fine.

4 The actual nozzle is not supposed to go
5 in someone's eye.

6 A. Oh, the actual part where it comes out,
7 going --

8 Q. Yes.

9 A. Oh, no. Uh-uh.

10 Q. Okay. And I'm going to play the
11 cruiser cam, which is Exhibit 16, at -- starting
12 at 23 hours, 54 minutes, and 13 seconds.

13 (Video was played.)

14 BY MS. BRATTON:

15 Q. And I stopped at 23 hours, 54 minutes,
16 and 37 seconds.

17 A. Yeah.

18 Q. Were you there -- or do you recognize
19 the voice?

20 A. I think I heard Doug in there.

21 Q. Okay. And that's Doug McClain?

22 A. I'm sorry. Officer McClain.

23 Q. Okay. And were you there when -- I
24 don't know whether that was Officer McClain
25 speaking, who said that Mr. Phillips said, I did

1 not resist, I complied.

2 A. I don't remember if I was there at that
3 time.

4 Where is Doug at in this video? Is he
5 up there or is he in the back?

6 Q. It looks -- I believe he's inside of
7 the van, because the audio was inside. They
8 didn't have their mics on, so all the audio
9 was --

10 A. Inside the van. Okay.

11 Q. Yeah.

12 A. I don't remember if I was in the van
13 with them or not.

14 Q. Okay. Let's see. Were you around when
15 Mr. Phillips told Officer McClain or when -- or
16 at least whoever was talking, that, I wasn't
17 resisting, I complied, and that he was a trooper?

18 A. I remember him saying the trooper part.
19 As far as the other stuff, I don't remember.

20 Q. Okay. And if you go to page GB112, it
21 looks like this is redirect examination by
22 Mr. Bennington, the prosecutor -- excuse me --
23 and he's asking you -- line 6 -- When did he --
24 Mr. Phillips -- grab the handle of the truck, to
25 your knowledge?

1 And you answer, As I was escorting him out
2 of the truck.

3 And then he asked the question, So he
4 did not grab the handle before, as he was getting
5 out of the vehicle, just himself.

6 And your response was No.

7 Is that accurate, of the redirect
8 testimony?

9 A. Yes.

10 Q. Did you handcuff Mr. Phillips?

11 A. I don't remember.

12 Q. Could Mr. Phillips have been handcuffed
13 prior to him being maced?

14 A. No. Because I was still dealing with
15 the right -- yeah, right arm.

16 Q. Did you have an opportunity to talk to
17 any of the other officers about -- at the time,
18 about their -- the way they remembered the macing
19 happening?

20 A. At the time of incident?

21 Q. Yes.

22 A. I know I talked to Officer Blair,
23 because I think she wrote the U-10 narrative.

24 Q. Okay.

25 A. So I would have had to tell her what I

1 did on my end.

2 Q. Okay.

3 A. And I told Sergeant Rector, at the
4 scene, what I did, to just let him know, hey, I
5 used a level 2, and this is what I did, this is
6 what Dale did. This is why I did this, because
7 of what Dale did. It was the back-and-forth.

8 Q. Okay.

9 A. I know that. But as far as anybody
10 else, I don't remember.

11 Q. Okay. So the U-10 is like the arrest
12 report?

13 A. The U-10.100 is the arrest narrative.

14 Q. Okay.

15 A. That's the one that goes to court.

16 Q. Okay.

17 A. The U-10.128 is what we talked about
18 earlier, we talked about right here, is what I
19 write down that goes to chain of command. I
20 think -- it goes to IA, I think. I don't know.

21 Q. Okay.

22 A. I just know it goes through the chain
23 of command and lets everybody know, hey, I did
24 this on this date and time because of this and
25 that. There's a record of it.

1 Q. Okay. And so in Officer Blair's
2 report, you gave her your actions to put into
3 the --

4 A. I told her what I did.

5 Q. Okay.

6 A. I think she did the U-10.100. She
7 wrote the narrative, I think.

8 Q. Okay. And have you written narratives
9 before?

10 A. Yes.

11 Q. Okay. And have you written narratives
12 where multiple officers had a part in the
13 arrest?

14 A. Yes.

15 Q. Okay. So when you do that, do you
16 write just off of what you remember, or do you
17 take what the other officers have told you and
18 incorporated it into your narrative?

19 A. Both.

20 Q. Okay.

21 A. There is a paragraph for me, what I
22 did, saw, heard, smelled, whatever, and then so
23 on and so forth for each person.

24 That's how I write them.

25 Q. Okay. I'm going to put in and play

1 Exhibit 18. And I'm going to go to 6 minutes and
2 15 seconds.

3 (Audio was played.)

4 BY MS. BRATTON:

5 Q. Okay. And that was Officer Cazan's
6 interview.

7 A. Okay.

8 Q. That -- after the handcuffing, that's
9 when he smelled the mace.

10 A. Okay. Did he say handcuffed both hands
11 or left hand? I thought I heard him say left
12 hand.

13 Q. Let's go back.

14 A. Because I know he was on the left
15 side.

16 (Audio was played.)

17 BY MS. BRATTON:

18 Q. Okay. So that was --

19 A. His left hand.

20 Q. Yes.

21 A. Uh-huh.

22 Q. Did you hear him say that -- after he
23 was handcuffed, though?

24 A. I think he was referring to the left
25 hand, though. Because he got the left hand

1 before I was able to get the right hand.

2 MS. LLOYD: Again, I'm just going to
3 raise an objection as to trying to interpret
4 what Officer Cazan is saying. Officer Cazan
5 is saying what he said. It speaks for
6 itself.

7 This is not Officer Groves' testimony,
8 it's Officer Cazan's statement to internal
9 affairs.

10 BY MS. BRATTON:

11 Q. Okay. I'm going to play it again so
12 that I can hear it. Okay?

13 (Audio was played.)

14 BY MS. BRATTON:

15 Q. Okay. And so Officer Cazan did say, We
16 got him handcuffed; is that correct?

17 A. Yeah. Him and whoever was on that side
18 got his left hand cuffed.

19 Q. So different people cuff different
20 hands?

21 A. When we're wrestling somebody that's a
22 possibility, if there's a bunch of us there.

23 Q. No. I'm asking in this incident.

24 A. Yeah. Because they were on his left
25 side -- whoever he was with on the left side. I

1 was on the right side. So there could be a bunch
2 of us going after both hands.

3 And sometimes we get one cuff on and
4 we're still struggling with the other.

5 Q. So do you remember how and who
6 handcuffed him?

7 A. No, I don't.

8 Q. Okay.

9 A. I just remember going for the right
10 hand, and it took me a good time to get it up
11 from underneath him.

12 That's why I maced him.

13 Q. Okay. But you don't remember if you
14 were the one who handcuffed him?

15 A. No. I don't remember who handcuffed
16 him, because there was a lot of us there.

17 Q. So there is a possibility that someone
18 else handcuffed him, outside of you, and his
19 right arm; is that --

20 A. Are you talking about on his left side?

21 Q. No. Either, left or right; that
22 someone else completely handcuffed him. Because
23 you don't remember if you did or not; is that
24 correct?

25 A. Right.

1 Q. So someone else could have besides
2 you?

3 A. After I got that right arm out, yes.

4 Q. Okay. And so the, we handcuffed him,
5 that Officer Cazan was referring to, could be you
6 or could be a third --

7 A. It could be him or --

8 Q. -- another officer --

9 MS. LLOYD: Objection.

10 BY MS. BRATTON:

11 Q. -- who was there?

12 MS. LLOYD: Again, objection as to
13 form, as to trying to interpret what
14 Officer Cazan is referring to. It could be
15 the royal we, that he's just referring to
16 himself.

17 We can't ask Officer Groves to
18 speculate on what Officer Cazan is meaning
19 by his words.

20 BY MS. BRATTON:

21 Q. You can answer the question.

22 A. Okay. What's the question again?

23 MS. LLOYD: Is the question what
24 Officer Cazan means?

25 BY MS. BRATTON:

1 Q. The question that I am asking you is --

2 A. Okay.

3 Q. -- the, we could, could be you, or it
4 could be a third --

5 A. Any one of us.

6 Q. Thank you.

7 Do you remember how many times you
8 interviewed with internal affairs?

9 A. Oh, I don't know.

10 Q. Do you remember whether -- or did the
11 prosecutor ever discuss with you whether or not
12 to dismiss charges against Mr. Phillips if he
13 would agree not to sue?

14 A. I have no idea.

15 Q. Okay.

16 A. I'm not sure.

17 Q. Did you talk to the prosecutor prior to
18 your testimony --

19 A. Both trials?

20 Q. -- in either trial? Either one.

21 A. Well, they tell us they're going to be
22 calling us in one at a time. But as far as what
23 we discussed, I don't remember the details of
24 what we discussed.

25 Q. Okay. And did you talk to -- I'm

1 sorry. Did you make any other statements to
2 anyone else besides the statements that have been
3 shown today, which are the use-of-force report,
4 the statement to internal affairs, and the two
5 trials?

6 A. Did I say anything different from all
7 that?

8 Q. Anywhere where it could be recorded,
9 did you write anything different?

10 A. Oh, no --

11 Q. Okay.

12 A. -- I don't believe.

13 Q. Okay. And did you meet with the safety
14 director about any of the incidents involving
15 Mr. Phillips?

16 A. Uh-uh.

17 Q. What --

18 A. I'm sorry. No.

19 Q. Okay. What about Commander Curmode?

20 A. I don't remember. I don't think we
21 did.

22 Q. What about Assistant Chief Kuebler?

23 A. No.

24 Q. Okay.

25 (Plaintiff's Exhibit 31 was marked for

1 identification.)

2 BY MS. BRATTON:

3 Q. I'll hand you what has been marked as
4 Exhibit 31. Do you recognize this to be your
5 internal affairs bureau report?

6 A. Yes.

7 Q. Okay. On the first page, GB1013,
8 January 18th of 2012, an injury to a prisoner
9 while making an arrest, what were the facts
10 surrounding that incident?

11 A. We're talking over five years. I have
12 no clue.

13 Q. Okay.

14 A. I know that was in The Bottoms, but
15 other than that, I don't remember.

16 Q. What is it called? I'm sorry.

17 A. It was in The Bottoms.

18 Q. What is The Bottoms?

19 A. Franklinton. I'm sorry.

20 Q. Oh, okay.

21 A. They call it The Bottoms --

22 Q. Okay.

23 A. -- but also Franklinton.

24 THE REPORTER: What are you saying?

25 THE WITNESS: The Bottoms.

1 THE REPORTER: The other.

2 THE WITNESS: Franklinton.

3 BY MS. BRATTON:

4 Q. Okay. If you turn to the next page, on
5 March 21, 2012, it looks like there was a finding
6 of some behavior that was outside of policy. Do
7 you know what that was?

8 A. No.

9 Q. Let's go closer in time. If you go to
10 the last page --

11 A. Okay.

12 Q. -- GB1032, 4/25/15, injury to a
13 prisoner, making an arrest. Do you remember --

14 A. Did you say last page?

15 Q. Yes.

16 A. I have --

17 Q. GB1032.

18 A. Oh, I see it.

19 Q. Not the one with Mr. Phillips.

20 A. Oh, I was like, that was the one most
21 recent.

22 Q. Do you remember that incident,
23 4/25/15?

24 A. No, I do not.

25 Q. Okay. All right. If you go to the

1 page prior to, GB1031, it looks like these were
2 in 2016. There have a 6/14/16 injury to a
3 prisoner. Do you remember that incident?

4 A. 6/14 of '16.

5 Q. Yes.

6 A. Page 10 --

7 Q. Yes, on the bottom.

8 A. Okay. Yeah, got it.

9 I'm sorry. You asked, do I remember
10 that?

11 Q. Yes.

12 A. I'm sorry. I was caught up on her name
13 because we just talked to her the other day.

14 No, I -- no, I don't remember that
15 one.

16 Q. And if you go to the incident above
17 that, 7/30/16, do you remember that incident?

18 A. No, I don't remember that one either.
19 My assignment wasn't 12C9, though. So I'm not
20 sure if that was me or somebody else.

21 Q. You said your assignment was not --

22 A. No. It's never been 12C9.

23 Q. Okay.

24 A. So maybe this was someone else that --
25 no. That's about all I know.

1 Q. Okay.

2 (Plaintiff's Exhibit 32 was marked for
3 identification.)

4 BY MS. BRATTON:

5 Q. Okay. Do you remember having to take a
6 retraining for cursing at citizens?

7 A. Yeah.

8 I volunteered to go to -- surviving
9 verbal conflict I think is what it's called.

10 Q. Okay. And then there was -- also, if
11 you go to GB1604 --

12 MS. LLOYD: I'm sorry, what was that?

13 MS. BRATTON: GB1604.

14 BY MS. BRATTON:

15 Q. And you had a retraining on use of
16 force and documentation.

17 A. Right. That was how to document and
18 explain better than what I was explaining.

19 Q. Okay. And that was in 2015, correct?

20 A. Yes.

21 Q. Okay. And if you go to 1632, this is
22 the middle of an investigative summary involving
23 an incident with a Mr. Brad Cherry.

24 A. Oh, I do remember this one.

25 Q. And during your initial interview

1 you -- on the second paragraph -- or the first
2 full paragraph, Officer Groves stated that
3 Officer George finished a search and walked back
4 to PTV. Officer Groves stated when Officer
5 George got in the driver's seat, he did not hear
6 Officer George utter the statement, She's getting
7 on my fucking nerves, she needs to go back in the
8 house, or any profanity at all.

9 So initially, when you were
10 interviewed, you said you didn't hear any
11 profanity; is that accurate?

12 A. Based -- from Officer George.

13 Q. Okay. And you didn't offer that you
14 had cursed?

15 A. He never asked me at that point.

16 Q. Okay.

17 A. Yeah, because -- I remember that
18 because I was talking to that officer. He asked
19 me if I needed to talk to her further. And
20 that's when I said, She's getting on my fucking
21 nerves.

22 Q. Okay. And then, I guess, two
23 paragraphs after that, after the initial
24 interview, you were called back into internal
25 affairs, after they examined the cruiser video

1 and found that it was you, not Officer George,
2 who made the comment.

3 A. I'm sorry. I was reading that.

4 Q. Oh, okay.

5 A. What was your question?

6 Q. Okay. Go ahead and read.

7 A. No. Go ahead.

8 Q. You were called back in --

9 A. Yes, a second time.

10 Q. -- a second time, after they reviewed
11 the cruiser video, correct?

12 A. Yes.

13 Q. And that was for them to let you know
14 that they had heard that you were the person who
15 used the profanity?

16 A. Correct.

17 Q. And was there any reason you didn't
18 tell them, outside of them not asking you, during
19 the first interview?

20 A. They didn't ask, and I didn't tell
21 them.

22 MS. BRATTON: Okay. If we can take a
23 quick break, I think I'm done, but --

24 (Off the record.)

25 MS. BRATTON: I don't have anything

1 else.

2 THE REPORTER: Would you like signature
3 if it's ordered?

4 MS. LLOYD: Yes, please.

5

6

OFFICER ADAM GROVES

7

8

- - -

9

DEPOSITION ADJOURNED AT 11:03 A.M.

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1 C E R T I F I C A T E

2

3 STATE OF OHIO :
4 : SS
5 COUNTY OF HAMILTON :

6 I, Wendy Haehnle, the undersigned, a
7 duly qualified and commissioned notary public
8 within and for the State of Ohio, do certify that
9 before the giving of his deposition, OFFICER ADAM
10 GROVES was by me first duly sworn to depose the
11 truth, the whole truth and nothing but the truth;
12 that the foregoing is the deposition given at
13 said time and place by OFFICER ADAM GROVES; that
14 I am neither a relative of nor employee of any of
15 the parties or their counsel, and have no
16 interest whatever in the result of the action.

17 IN WITNESS WHEREOF, I hereunto set my hand
18 and official seal of office at Cincinnati, Ohio,
19 this 6th day of October 2017.

20

21

22 Wendy Scott
Notary Public - State of Ohio
My commission expires September 3, 2022

23

24

25

1 E R R A T A S H E E T

2 DEPOSITION OF: OFFICER ADAM GROVES
3 TAKEN: SEPTEMBER 26, 2017

4 Please make the following corrections to my
5 deposition transcript:

6	Page	Line Number	Correction Made
7			
8			
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16			
17			
18			
19			
20			
21			
22			
23			
24			
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25	Witness Signature	Date
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0	32 27:11 77:2 35 47:17 37 63:16	actions 67:2 actively 40:11 actual 62:22 63:4,6 Adam 4:1,12 80:6 add 33:15 ADJOURNED 80:9 affairs 32:24 33:14 69:9 72:8 73:4 74:5 78:25 affect 62:19 age 25:7 26:1,10 ago 17:2,9 19:23 agree 50:6 72:13 ahead 22:3 32:5 63:1 79:6, 7 ahold 50:17 air 17:5 aired 24:23 25:6 26:22 amount 38:20 answer 5:8,18,20 10:5 25:10 45:16,24 49:22 50:2,10,14 52:16 57:6 58:10 60:16 62:3 65:1 71:21 anybody 66:9 approached 48:15 approximately 48:7 arm 8:19 11:1 20:3,7,20, 24,25 22:20 23:25 36:25 37:7 50:18 57:8,20,24 58:2 59:17,21 65:15 70:19 71:3 arms 30:14 31:7 48:22 51:3,9,10 59:11 arrest 24:4,7 31:24 66:11, 13 67:13 74:9 75:13 arrive 25:5 26:5 arrived 42:23 asked 35:2,3 40:23 42:2 43:7 45:16,22 49:7,10,11, 17,19,22 50:3,6 52:11 53:11 54:11,20 56:24 57:4 58:7 61:5,22 65:3 76:9 78:15,18 asking 10:19 18:1 25:16 35:10,12 37:22 40:13 42:10 49:5 52:7 56:12 60:19 64:23 69:23 72:1 79:18 assessed 26:21 assignment 16:1,2 76:19, 21 Assistant 73:22 assume 26:20 assuming 14:1 42:8 attempt 59:16
1	4 44:19 52:10 4/25/15 75:12,23 40 25:24 47 46:20 47:16 48:7 49 48:12	
0 11:17,18	5 41:12,18,20 42:19 44:19 50:24 51:24 62:1 50 25:24 54 63:12,15	
1	6 34:22 64:23 68:1 6/14 76:4 6/14/16 76:2 60 16:3	
1 11:17 23:9 37:5 45:13 10 40:22 42:3 58:7,15 76:6 10:21 53:21 10:24 53:22 11 35:1 38:1 39:5 11:03 80:9 12 60:18 61:24 128 30:9 12C9 76:19,22 13 39:22 63:12 14 39:22 41:22 58:16,17 15 57:9 68:2 15th 14:8 31:19,20 16 46:15 52:19,20 63:11 76:4 1632 77:21 16th 31:13 17 41:10,20 42:4,14,17 61:21,25 18 34:11 39:21 41:22 42:2, 4 48:8,20 68:1 18th 74:8 19 36:11 52:4,17 19th 16:7,19,20,21	7 37:4 56:21 7/30/16 76:17 799 29:23	
2	8 11:18 37:5 8/2/16 61:18	
2 11:17,21 29:18 39:5 66:5 20 27:21 44:19 46:20 48:12 52:17 54:11 2012 74:8 75:5 2014 14:8 31:14 2015 77:19 2016 76:2 21 53:11 54:11 75:5 22 46:19 47:16 48:7,12 22:45 27:11 23 36:11 37:4 63:12,15 25 37:4 2651 30:1 28 33:5,6,10,13 34:12,24 29 44:24 45:3	9 50:16 90 16:3 9:26 27:2 9:28 27:2	
3	A A.M. 80:9 ability 13:11 able 6:4 30:20 31:8 47:3 58:8 69:1 academy 8:2,20 10:11 accident 7:24 accomodating 6:17 accuracy 33:25 accurate 24:5 34:5 42:9 44:21 48:17 51:23 57:2 62:15 65:7 78:11	
3 11:17 27:8,11 52:5 30 27:21 53:23 54:1 31 73:25 74:4		

attempted 49:3
attention 48:3
attorney 5:17 6:9 7:17
 52:8
audio 27:9,12 34:15,16
 64:7,8 68:3,16 69:13
available 7:19
aware 27:14 59:4

B

bachelor's 7:10
back 5:10 27:15 37:11
 39:20 41:10,14 42:22
 47:11 64:5 68:13 78:3,7,
 24 79:8
back-and-forth 66:7
badge 30:2,4
bar 28:1,2,7,8,10,14,23
bars 8:19 11:1
based 8:22 37:25 39:9
 43:6 44:1,15 47:8 48:18
 51:24 53:1 58:5 78:12
basis 9:5 56:10
Bates 29:21
bathroom 5:11 26:25
 53:19
began 23:11
behavior 75:6
believe 33:16 54:12,16
 64:6 73:12
believing 56:5
belly 51:3,20,23 52:2
Belvidere 16:8,23
Bennington 64:22
best 11:25 12:12,16 17:2,8
 28:8
better 77:18
bike 14:18
binder 29:18
Bits 18:21
black 14:4 28:22 29:12
 55:11,13
Blair 32:19 36:9 40:17,21,
 23,24 42:3,5 43:5,8,15
 46:10 54:18 59:5,24 65:22
Blair's 67:1
body 19:25 20:1 23:20
 30:18 41:8,9 58:11,13
book 8:23 11:12
bothers 15:23
bottle 13:8
bottom 29:20 45:9 54:8
 76:7

Bottoms 74:14,17,18,21,
 25
Brad 77:23
BRATTON 4:5 6:1,2 10:4,
 20 25:1,11 26:12 27:3,10,
 13 33:8,12,19,22 34:1,4,7,
 8,17 35:14 40:8 42:13
 43:18 44:17 45:1 46:18
 47:1,7,15 48:2 51:17
 53:18,25 57:15,18 63:2,14
 68:4,17 69:10,14 71:10,
 20,25 74:2 75:3 77:4,13,
 14 79:22,25
break 5:14 26:25 51:9
 53:19 79:23
breaks 5:11
building 19:8,21 21:25
 54:21 55:5
bulldozed 28:9
bunch 59:11 69:22 70:1
bureau 74:5
burglar 36:2
burglary 16:5 19:8,20
 22:8 35:5,8,22 36:7 54:14,
 19 56:6,23
burns 38:24 39:2
burst 12:21 31:5 38:3,20
 39:8
Byrne 22:4 28:18

C

call 16:5,25 17:4 26:9
 27:20 74:21
called 28:21 54:14 74:16
 77:9 78:24 79:8
calling 72:22
calls 17:15
cam 46:16 63:11
camera 15:14
cameras 15:9,11
car 17:6 21:3,4,10,13,23
 22:16,19 23:12 24:3,13
 26:10 46:22 47:19 48:7
carrying 54:22
cars 15:11
case 17:25
caught 76:12
Cazan 28:25 30:12 40:1
 47:4,8 50:25 61:1 69:4,15
 71:5,14,18,24
Cazan's 60:19 68:5 69:8
certain 21:9
Chad 30:19 40:1,15 41:2
 43:8,22 44:2,10

chain 66:19,22
characteristics 56:16
charge 32:20
charges 72:12
Cherry 77:23
chest 48:22
chick 19:1 21:24
Chief 73:22
citizens 77:6
cleared 22:7
clearly 48:10
close 12:2
closer 75:9
clothing 25:7 26:3,11
clue 74:12
coat 55:13
codes 48:4
color 25:7
Columbus 6:22 7:2,22
come 23:21 25:20 36:14
comes 38:2,9,18,21 63:6
coming 6:9 17:17 36:19,23
 39:15
command 24:16 66:19,23
Commander 73:19
commands 24:13,19 31:10
comment 79:2
community 14:25 15:19,
 23
complete 22:23
completely 70:22
complied 31:9 49:12 64:1,
 17
complies 50:23
comply 24:19 45:19 49:25
 56:24
computer 17:23 18:9
concentrate 6:4
conclusion 36:15
conflict 8:11 77:9
confused 10:18
continue 36:19
continued 31:6
continuously 12:18 13:11
control 22:23 30:14 51:1
 57:10
conversation 22:6 46:2,10
convoluted 5:5
cooperating 52:14
correct 15:2 23:23 28:16,
 22 32:24 33:19 37:10
 39:18 43:9,21,23,24 44:5
 48:25 50:11,20,21 51:6,21
 52:15,16,18 56:10 58:14,

24 61:7,8 69:16 70:24
77:19 79:11,16
counsel 7:20 33:18
count 13:22
couple 62:3
course 42:9
court 4:21 53:8 66:15
Cross-examination 52:5
CRT 14:25 15:1,3,11,21
cruiser 15:4,7 28:24 46:16
48:12 63:11 78:25 79:11
cruisers 15:8 21:20
cuff 59:21 69:19 70:3
cuffed 69:18
cuffs 21:1 23:4
Curmode 73:19
current 6:20
cursed 78:14
cursing 77:6
custody 20:18

D

Dale 19:18 28:24 41:17
66:6,7
Dale's 61:6
dark 19:2 58:11,21,25
date 31:18 32:2 61:16
66:24
dates 9:20
day 14:9 15:17 31:16,21
76:13
days 16:3
deal 9:23 15:24
dealing 18:15 65:14
December 6:25
defendant 4:2
Defendant's 23:9
defensive 8:6,14 9:24
10:14,21 11:7
degree 7:10
department 14:14
deploy 11:23 12:17,18
61:22 62:2
deployed 31:4 62:14
deposed 4:3
deposition 4:13,15 6:14
80:9
describe 45:22 50:4
description 17:20 26:3
50:5 51:15
detail 14:24
details 26:10 72:23
detain 19:19 21:5 23:5
54:25 56:10,22

detained 23:3 24:4,6,14
46:7
determine 33:25
different 5:2 8:19 21:20
26:19 69:19 73:6,9
directive 11:14,16
directly 59:2 62:15
director 73:14
discuss 72:11
discussed 6:9 72:23,24
discussing 44:10
discussion 5:19 40:5
disk 34:10
dismiss 72:12
dispatch 24:23 25:6,18,23
26:7,14 27:5,15,20 28:13,
21
distance 12:6,11,12 16:13
distinguishing 56:16
division-issued 31:5
document 77:17
documentation 77:16
documents 6:8
doing 19:10 39:15 43:5
54:23 60:1
door 19:9,21 36:12 37:6,7,
19 41:17 42:1 50:17 57:6
doorjamb 22:21
double-leg 60:20
Doug 63:20,21 64:4
drive 15:3
driver's 47:19 78:5
driving 15:5 17:23 18:23,
24
duly 4:2
duties 15:16
duty 55:2
dying 20:10

E

e-mails 9:13
earlier 60:17 61:7 66:18
east 28:10
education 7:9
either 70:21 72:20 76:18
employed 6:24
enforcement 7:2
engaged 46:11
entire 48:13
equipped 15:8
escort 22:20
escorting 65:1
estimate 26:1

eventually 20:25 21:22
31:8 46:7 51:1
eventually 19:17
everybody 30:24 66:23
evolving 60:14
exact 12:6,15 16:13 35:24
exactly 26:23 42:10 51:19
examination 4:4 64:21
examined 4:3 78:25
excuse 33:11 61:14,21
64:22
exhibit 23:9 27:8,11 29:18
33:4,6,10,13 34:11,24
44:24 45:3 46:15 53:23
54:1 63:11 68:1 73:25
74:4 77:2
exiting 52:13,15,24 53:12
experience 7:4,7
explain 38:2 77:18
explaining 77:18
expound 5:9
eye 62:15 63:5
eyes 12:3 62:19

F

face 12:3,9 31:6,7 39:7,12,
18,19 61:6,11 62:4,16
factor 25:8
facts 74:9
fair 55:5
fall 31:2 51:5,9
far 12:3 16:4,9,11,13
23:14 25:17 32:11 38:12
57:2 64:19 66:9 72:22
fast 60:14
feet 8:18
fell 30:24 51:9
female 55:10,11,14,18
56:2,15
fight 22:22
fighting 13:3
fights 8:18
figure 19:20 24:10
figured 59:20
find 11:9 55:2 59:23
finding 75:5
fine 5:13 7:18 63:3
fingers 40:18,19
finish 57:13
finished 78:3
first 4:17 12:1 19:15 32:9
45:4,6 46:9 47:18,22,24
57:1 62:10 74:7 78:1
79:19

five 74:11
flat 38:12
focused 15:21
follow-up 8:4
follows 4:3
foot 19:24 23:19 36:11
 37:3 50:18,19 57:7,23
force 9:25 10:16 13:24
 32:11,16 77:16
forget 59:8
form 10:17 25:9 26:6
 35:10 40:3 42:7 43:11
 44:12 71:13
forth 67:23
forward 39:18
found 79:1
four 7:10
frame 37:19
Franklinton 74:19,23 75:2
freaking 20:11
fucking 78:7,20
full 78:2
further 35:6 36:8 56:23
 78:19

G

game 26:17
gangs 15:22
GB 45:11 54:8
GB1013 74:7
GB1031 76:1
GB1032 75:12,17
GB108 60:18
GB109 61:21
GB112 64:20
GB1604 77:11,13
GB339 45:12 48:20
GB343 50:22
GB354 52:3
GB355 53:11
GB799 29:22
GB93 54:10
GB94 56:20
GB95 57:9
GB98 58:6
George 78:3,5,6,12 79:1
getting 6:15 22:15 23:4,7,
 14,17,22 24:3 32:18 37:2,
 10,13,14,22 39:24 44:10
 65:4 78:6,20
girl 21:18
give 36:18 45:2 56:17
gives 25:23

giving 7:13 20:20 24:12
go 5:10 7:16 8:21 15:18
 22:3,10 26:7,8,16 29:4,18,
 22 32:5 40:22 41:25 45:12
 47:11 48:19 50:25 51:20
 52:4 54:10 58:6 60:2,18
 61:6 63:1,4 64:20 68:1,13
 75:9,25 76:16 77:8,11,21
 78:7 79:6,7
goes 7:23 11:18 42:22
 61:10 62:18 66:15,19,20,
 22
going 10:1,8 20:9,11,13,14
 21:19,20 22:25 23:4,5,6,8,
 21,25 26:20 27:4,10 33:2,
 3 34:9 35:6,12 36:8 37:5
 38:6 42:6 45:2,8 46:14,19
 55:1,23 57:13,15 58:9
 60:12,15 62:18 63:7,10
 67:25 68:1 69:2,11 70:2,9
 72:21
good 4:6,7,8 22:10 36:12,
 16 70:10
grab 58:1 64:24 65:4
grabbed 20:3 23:25 36:21,
 25 50:17 57:10,21,25 58:2
 59:17
grabbing 23:15
gray 55:13
ground 8:18 20:19 23:19
 30:21,22 31:7 39:18 42:24
 44:5,7,11,16 50:19 51:2,6
 58:9
group 32:19
Groves 4:1,12,14 30:12
 31:4 71:17 78:2,4 80:6
Groves' 69:7
Guard 7:8
guess 10:18 37:16 56:8
 78:22
guide 57:8,21,24

H

hair 25:7
half 19:25 20:1 23:20 41:5
 44:3,15
hand 12:18 23:15,23 33:3
 37:7,8,9,15 53:12,14
 68:11,12,19,25 69:1,18
 70:10 74:3
hand-to-hand 8:23
handcuff 65:10
handcuffed 31:9 44:20
 59:5 65:12 68:10,23 69:16
 70:6,14,15,18,22 71:4

handcuffing 68:8
handcuffs 48:11
Handing 33:9
handle 23:15,23 37:8,9,15,
 16,19 40:19,20,22 50:17
 57:11,22,25 58:2 64:24
 65:4
handles 37:18
hands 58:8 68:10 69:20
 70:2
happened 16:25 41:14
 42:22 45:14 49:20 60:10,
 11
happening 58:12 65:19
happens 6:18
harder 9:2
Harris 19:4,6,12 28:3,5,10
head 18:13 20:10 55:15
hear 17:15,19,21 68:22
 69:12 78:5,10
heard 63:20 67:22 68:11
 79:14
heck 4:9
height 25:7
help 17:8 19:15 60:16
Hemminger 52:8,11 53:11
hey 18:10 22:24 23:3 60:3
 66:4,23
Hilltop 15:20,21
hold 13:19 22:20,23
holding 53:12
homicide 7:25
honestly 17:1,9
horrible 62:20
hours 46:19 47:16 48:7,12
 63:12,15
house 78:8

I

IA 66:20
IAB 34:25
idea 16:14 18:1 20:15
 23:16 24:17,20 29:16
 30:17 36:12,16 72:14
identification 33:7 44:25
 53:24 74:1 77:3
ignore 26:13
immediate 32:6
immediately 36:22 60:3,5
important 24:21 25:2,3,16
 26:4
inches 62:3
incident 31:17 32:10 48:13
 61:17 65:20 69:23 74:10

75:22 76:3,16,17 77:23
incidents 73:14
incorporated 67:18
increments 13:1
Indicating 62:25
individual 22:15
individuals 21:10 54:13,
 22 55:16
information 7:14 26:4
 55:22
informed 35:18
initial 24:15 61:16 77:25
 78:23
initially 29:6 40:7 52:23
 78:9
injury 74:8 75:12 76:2
inside 21:24 27:16 28:23
 64:6,7,10
instructs 5:23
interaction 18:20
internal 32:23,24 33:14
 69:8 72:8 73:4 74:5 78:24
interpret 69:3 71:13
interview 32:24 33:14,21
 34:25 43:2 68:6 77:25
 78:24 79:19
interviewed 72:8 78:10
investigate 35:6 36:8 55:1
 56:23
investigating 21:11 35:5,
 22 36:7
investigation 21:7
investigations 7:24,25
investigative 77:22
involved 21:22 24:10
 54:13,18,24 55:17,19
involvement 22:7
involving 73:14 77:22
issues 15:19

J

January 74:8
Jean 18:25 19:15 60:1
Johnson 34:25 35:1 40:23
 41:13,25 42:20 43:20 49:3
June 61:24

K

Karen 18:25 19:18 40:7,
 23 42:3 43:8,15
keep 12:17 13:6 18:1,13
 57:9
keeping 9:7

keeps 6:15
kept 10:11 17:12 20:7
 39:6,15 59:17
kick-down 60:20
kind 4:18 13:13 20:2
 23:20 26:21 29:21 59:20
knew 35:7,11,16 39:13,14
know 5:10,14 6:18,19 7:21
 9:19 12:1,10,14 14:6 19:9,
 11,23 20:12,13,14,24
 21:14 22:5,9,11,24 24:11,
 22 27:22,25 28:6 35:7,16,
 18,20 36:25 38:4,13 46:23
 47:2,12,21 48:3 49:18
 51:8 55:2,19 56:7 59:25
 61:1 63:24 65:22 66:4,9,
 20,22,23 68:14 72:9 74:14
 75:7 76:25 79:13
knowledge 35:4,17 64:25
known 29:3
Kuebler 73:22

L

lag 27:19,24
law 7:1 9:10,12
leave 21:10
left 19:24 20:3,21 37:2,7
 50:18,19 57:7,8,20,23,24
 58:1,12,20 59:17 68:11,
 14,19,24,25 69:18,24,25
 70:20,21
leg 51:1 60:20
legal 8:7 9:3,15
legs 20:22 41:4 44:2 51:1
 59:12
let's 24:15 26:24 31:3 33:4
 40:22 44:18 47:25 64:14
 68:13 75:9
level 11:16,21 66:5
lieu 7:13
lift 13:18
lights 59:2
line 35:1 37:5 39:5 40:22
 41:12,18,20,22 42:3,14,19
 45:13 48:20 50:16,24
 51:24 52:4,5,10,17,19,20
 53:11 56:21 57:9 58:7,15
 60:18 61:21,25 62:1 64:23
lines 36:1,11 37:4 39:22
 42:4,10 44:19 54:11
listen 25:18
listened 25:6
LLOYD 10:1,17 24:24
 25:9 26:6 33:11,15,20,23
 34:2,5 35:9 40:2 42:6

43:10 44:12 51:12 57:13,
 17 69:2 71:9,12,23 77:12
 80:4
location 17:6
long 5:5 6:24 8:1 36:18
 50:10,14
longer 13:20
longest 59:25
look 9:17 17:22 18:9 45:8
 52:12 54:7
looked 29:1
looking 18:14 24:23 50:16
 54:1
looks 39:25 41:12 48:4
 49:10 52:4,6 61:23 64:6,
 21 75:5 76:1
lot 20:18 26:7,8,9 39:4
 55:21 70:16
loud 41:19
lower 30:19 44:15

M

mace 11:20,23 13:8 20:24
 31:5 38:2 39:13 60:7
 61:22 62:2,14 68:9
maced 65:13 70:12
macing 39:6 65:18
making 74:9 75:13
male 14:5 55:13,18 56:2,
 15
males 55:10,11
March 75:5
mark 33:3
marked 23:9 27:7 33:6,9
 34:10 44:24 45:3 46:15
 53:23 73:25 74:3 77:2
Mcclain 63:21,22,24 64:15
mean 10:10 23:13 26:15
 32:8 50:4 62:18
meaning 71:18
means 71:24
meant 45:22
mechanism 13:13
medications 6:5
meet 73:13
memos 9:13
mention 41:24 42:5 43:4
messing 40:18
Micah 21:23 24:11 28:24
 29:8,9,11 54:17 56:17
microphone 15:15
microphones 15:13
mics 64:8

middle 29:22 77:22
midnight 31:25
midway 30:10
miles 16:10
Military 7:4
military 7:6
mind 53:19
minute 16:16 45:25 46:3
minutes 46:20 47:16 48:7,
 12,14 63:12,15 68:1
mischaracterization 40:4
 43:13 51:13
mist 38:13
months 7:23 8:3 9:18
morning 4:6,7
move 39:12
moved 6:15
moving 13:6,7 21:15 39:7
multiple 67:12

N

name 4:10 76:12
narcotics 15:22
narrative 30:8 65:23
 66:13 67:7,18
narratives 67:8,11
National 7:8
near 17:6
need 5:11,12,14,20 7:17,
 19 21:5 37:11
needed 19:15,19 36:7
 78:19
needs 78:7
nerves 78:7,21
never 13:24 34:6 41:24
 76:22 78:15
news 9:8
night 31:23
normal 18:7
normally 15:20
north 19:12
nose 62:19
notice 40:25
nozzle 38:9 62:22 63:4
number 12:15 30:1 39:5
 54:5,6
numbers 29:21 45:9,11
 54:8

O

object 10:2 42:6
objecting 5:18

objection 10:17 24:24 25:9
 26:6 35:9 40:2 43:10
 44:12 51:12 69:3 71:9,12
objections 5:16
offer 78:13
officer 4:1,6,14 6:21
 13:10,19 22:4 24:22 25:2
 28:18 30:12 31:4 32:19
 40:1,17,21,24 42:5 43:4,
 15 46:10 47:8 50:25 54:18
 59:5,24 60:19 61:1 63:22,
 24 64:15 65:22 67:1 68:5
 69:4,7,8,15 71:5,8,14,17,
 18,24 78:2,3,4,6,12,18
 79:1 80:6
officers 6:13 22:5 31:8
 65:17 67:12,17
officers' 31:10
oh 4:9,20 6:6,18 7:18 10:6
 11:6 17:16 22:3,13 23:1
 29:16 32:4 38:22 42:16
 58:22 59:6 63:6,9 72:9
 73:10 74:20 75:18,20
 77:24 79:4
okay 4:18,21,23 5:4,7,15,
 22,25 6:7,12,16,18,19,22
 7:6,9,11,13,20 8:1,4 9:1,9,
 12,16,22 10:6 11:9,13,16,
 19,22 12:7,10,16,22,25
 13:5,8,19,23 14:1,8,11,14,
 17,20,23 15:1,4,8,13,16,
 25 16:4,9,12,15,18,21,24
 17:19,24 18:3,5,12,16,22
 21:2,16 22:14,24 23:2,7,
 10,18,22 24:2,7,12,18,21
 25:13 26:13,24 27:6,18,
 23,25 28:6,12,17,21 29:5,
 14,17 30:1,5,10,22 31:1,3,
 13,22 32:1,3,14,18,23
 33:1,15 34:7,10,12,14,21
 35:21,25 36:10,18 37:4,21
 38:8,12,14,17,19,23 39:3,
 5,11,17,21 40:17,21 41:7,
 10,23 42:25 43:7,25 44:4,
 6,9,18,23 45:2,8,10 46:5,
 13,24 47:2,5,11,13,23,25
 48:9,16,19 49:2,6,8,14,19
 50:13,15,22,24 51:8,18,25
 52:3,9,11,21 53:2,4,6,17
 54:3,7,9,10 55:12,16,23
 56:4,8,20 57:4,17 58:6
 59:1,4,7,10,13,19,23 60:2,
 6,9,13,16,23 61:4,10,14,
 19 62:13,14,17 63:10,21,
 23 64:10,14,20 65:24
 66:2,8,11,14,16,21 67:1,5,
 8,11,15,20,25 68:5,7,10,
 18 69:11,12,15 70:8,13

71:4,22 72:2,15,25 73:11,
 13,19,24 74:7,13,20,22
 75:4,11,25 76:8,23 77:1,5,
 10,19,21 78:13,16,22
 79:4,6,22
old 7:11
once 9:14 13:17,18 21:22
 22:15 30:24
one-second 12:21 31:5
 38:3,20
one-second-burst 12:25
open 29:17 41:17 42:1
 57:7
opening 37:6
opportunity 33:24 65:16
orange 55:14
order 56:25
ordered 80:3
OSU 7:10
outside 6:8 7:2 9:23 10:2,
 10 29:4 70:18 75:6 79:18

P

page 29:22 34:22 37:4,5
 38:1 39:21 41:10,20,22
 42:2,11,17 44:18 48:20
 49:13 53:10 61:20 64:20
 74:7 75:4,10,14 76:1,6
paid 48:3
pants 14:12,22
paragraph 30:11 67:21
 78:1,2
paragraphs 78:23
parked 19:10
part 19:20,25 30:18 58:23
 59:6 62:21 63:6 64:18
 67:12
partially 45:21,23 50:2,4
 52:13,15
participate 6:4
particular 9:19 15:17
partner 18:10
parts 30:19
passenger 19:2,15 46:22
 48:6
patrol 15:20
pavement 19:25 30:13
 57:7,23 61:7
payment 39:7
peacefully 52:14,25
people 20:21 21:21 26:8
 29:6 61:11 69:19
person 47:3 57:10 67:23
 79:14

person's 13:3
personal 7:14
Phillips 6:1 14:2 18:20
 21:17 23:8,11 24:2,13
 27:25 28:12,13 29:7 30:13
 32:20 35:2,7,10,19 36:6,
 15 37:13 39:24 42:23
 44:19 46:11 47:18 48:11,
 21 50:16 52:23,24 54:17
 56:16,22 61:10 63:25
 64:15,24 65:10,12 72:12
 73:15 75:19
Phillips' 27:16 31:6 46:22
 48:6 52:8 58:8
physically 30:12,15,16
 40:15
pick 24:11
pieces 18:21
placed 30:13,16,23
plaintiff's 27:7 33:6 44:24
 46:15 53:23 73:25 77:2
plates 27:16
play 27:4,10 63:10 67:25
 69:11
played 27:9,12 34:16
 46:17,25 47:6,14 48:1
 63:13 68:3,16 69:13
playing 20:15 26:17
please 80:4
point 37:1 40:6,24 42:3
 43:16 44:2 47:24 51:2,5,
 22 52:1,12 55:4 78:15
points 8:19
police 6:21,22 7:2,22 15:4
policies 9:22,24 10:15
 11:4,10,13 12:1
policy 10:14,15 11:25
 12:16 22:14,18 75:6
portion 54:2
posed 45:18
position 6:20 23:16
possibility 69:22 70:17
potential 21:3 25:23
practice 12:17 18:7
practices 12:13
precinct 16:7,20,21
prepared 33:18 34:3
press 13:11,17
pressure 8:19
pretty 8:17,19
previously 34:10 46:15
prior 6:9,13 35:4,12 44:9,
 10 50:7 52:23 65:13 72:17
 76:1
prisoner 74:8 75:13 76:3

proactive 15:18
probably 52:18
profanity 78:8,11 79:15
progress 16:6
property 28:9
prosecutor 45:18 49:8,10
 50:3 52:7 56:24 57:4 58:7
 60:19 64:22 72:11,17
prostitution 15:22
proximity 55:5 56:1,14
PTV 78:4
public 26:9,16 55:21
pull 20:13,15 31:6 40:19
 48:21 49:4 50:7
pulled 48:22
pulling 40:11,15 48:24
 49:9,15,17 59:18
punishment 13:24
push 38:16
put 21:19 23:4 34:9 36:10,
 11 37:2,6,7,23 38:15 51:3
 57:7,23 59:13 67:2,25

Q

qualification 10:2
qualifications 8:8
question 5:1,18,20 10:7,13
 37:12 40:10 42:12 43:12,
 14,17 45:18 52:21 54:20
 57:16 58:1,19 62:1,2,5,20
 65:3 71:21,22,23 72:1
 79:5
questions 49:24 50:6,9,12
 52:7 54:25 60:17
quick 26:25 79:23

R

race 25:24 26:11 28:17
radio 17:12 18:9 26:18,22
 27:4 55:9
radios 17:14
rail 53:12
raise 69:3
read 9:17 37:11 41:18,19
 61:23 79:6
reading 52:20 61:24 62:9
 79:3
reair 17:22
real 26:25
realize 34:2
realized 36:12,15
really 18:18 19:11
rear 28:1,7,13

reason 6:3 21:16 49:2 55:6
 79:17
reasonable 56:11,13,18
recall 12:5,11 22:13 32:17,
 18 56:19
recess 27:2 53:21
recognize 14:4 34:18
 46:21 47:9 63:18 74:4
record 4:11 5:19 33:16,23
 66:25 79:24
recorded 73:8
recorder 34:3
Rector 32:20 66:3
redirect 64:21 65:7
referencing 52:19
referring 41:6 62:11 68:24
 71:5,14,15
refresher 8:21 9:6,7,14
reload 13:10,15,17
remember 5:8 14:24 15:10
 16:4 17:1,2,5,10,11,24
 18:17,19,22 19:14 20:5
 23:13,24 24:1,15,18
 26:20,22 27:17 28:8,17
 29:14 30:15,18,23,25
 32:22,25 35:22,25 36:20,
 21 37:1,3 39:8,10,13,14,
 19 45:5,6 46:2,10 47:20,
 22 49:5 51:16 59:6 60:4,5,
 6,8 61:12,13 64:2,12,18,
 19 65:11 66:10 67:16
 70:5,9,13,15,23 72:7,10,
 23 73:20 74:15 75:13,22
 76:3,9,14,17,18 77:5,24
 78:17
remembered 65:18
remove 21:4,17 22:19
repeat 5:2
report 32:7,9 66:12 67:2
 73:3 74:5
reporter 4:22 62:25 74:24
 75:1 80:2
represented 33:17
request 45:19 49:12,25
requirement 12:13
reread 43:1
resist 44:19 64:1
resisting 64:17
respond 17:7 25:6 53:14
 57:1 60:25
response 14:25 35:23,24
 41:1 43:19 65:6
retraining 77:6,15
review 8:17 9:11 33:24
reviewed 6:7 79:10

rewind 48:5
rifle 8:12
right 10:23,25 11:2 19:4,
 21 20:20,23,25 30:7 34:21
 37:1,8,17,20 38:9 41:3
 44:6 50:12,18 51:14
 53:13,14,18 54:21 56:14
 58:10,20 61:17 65:15
 66:18 69:1 70:1,9,19,21,
 25 71:3 75:25 77:17
roof 29:1
royal 71:15
rub 31:7
run 27:16
running 17:12 21:23
 28:25

S

safety 73:13
saw 67:22
saying 4:25 26:14 35:13
 41:4 50:7 64:18 69:4,5
 74:24
says 5:17 26:16 29:23
 43:14 44:4 51:14,22 52:1,
 5
scene 22:9 24:22 25:5 26:5
 41:15 42:1 54:17 66:4
search 78:3
seat 78:5
second 13:14 30:11 33:11
 54:4 60:4 61:15 78:1 79:9,
 10
seconds 27:11,21 46:20
 47:17 48:8,12 63:12,16
 68:2
see 19:15 21:20 31:3 33:4
 44:18 47:3,25 48:10 49:19
 58:8,21 60:21 61:1 64:14
 75:18
seen 14:2 34:6 38:5
send 9:19,20
sentence 30:11
sentences 31:4
separate 21:19
September 14:8 31:13
Sergeant 32:20 34:25 35:1
 40:23 41:13,25 42:19
 43:20 49:3 66:3
seven 6:25
shirt 14:12,21,22
shorts 29:15 55:14
show 23:8 38:7 46:14
shown 73:3

sic 20:11 62:4
side 19:1,2,15 20:20,21
 28:1,7,11,14 36:5 39:19
 46:22 47:19,22 48:6
 58:11,12,20 68:15 69:17,
 25 70:1,20
signature 29:23,24 80:2
significant 38:20
situation 60:14
Six 7:23 8:3
skylight 29:1
smelled 67:22 68:9
somebody 17:5 29:2 59:17
 69:21 76:20
someone's 12:2,3 62:15
 63:5
SOP 11:11
sorry 11:8 22:2 30:6 32:4,
 5 34:15 38:25 40:22 42:16
 43:17 52:21 53:5,7 58:19
 60:24 62:5 63:1,22 73:1,
 18 74:16,19 76:9,12 77:12
 79:3
sort 53:12
south 20:6
speak 4:21
speaking 28:18 32:19
 34:20 63:25
speaks 43:12 44:13 69:5
specific 10:16
specifically 5:23 43:14
 49:14,17
specifics 55:24
spectrum 11:19
speculate 71:18
spin 20:17
spray 11:24 12:8 38:6,12
 62:16
sprayed 20:24 39:16
stand 22:21
standard 14:15
start 24:15 41:12 52:20
started 23:22 24:12 29:2
starting 42:2,16,19 45:12
 56:21 58:6 63:11
starts 41:13,25 52:10
state 4:10 35:1
stated 50:25 78:2,4
statement 57:14 69:8 73:4
 78:6
statements 73:1,2
stay 21:14
step 19:19 35:2 45:17,19,
 25 49:12,23,25 56:22,25

stepped 50:19
stop 13:9 21:12 46:19
 47:16 57:5
stopped 19:11 28:1 29:6
 35:8 36:17 44:22 57:1
 63:15
Stops 13:14
street 16:18,22 19:10,12
 59:2
stronger 20:18
struck 39:1
struggle 58:9
struggling 30:14 70:4
stuff 54:23 64:19
substation 16:8 17:12
sue 72:13
Sullivant 16:8,22 19:3,6,
 12
summary 30:8 77:22
supposed 11:22 12:20 63:4
supposedly 54:22
sure 10:10 30:19 46:6
 49:16 72:16 76:20
surrounding 74:10
survivable 8:11
surviving 8:17 77:8
suspect 21:3
suspect's 25:24
suspects 17:20 18:8 27:15
suspicion 56:11,13,18
SUV 18:24
sweep 60:20
switch 46:13
switching 52:6
sworn 4:2
system 9:8

T

tactic 10:14
tactics 8:7,14 9:24 10:22
 11:7
take 21:3 41:13 53:19
 67:17 77:5 79:22
taken 4:13 27:2 53:21
talk 23:5 56:21 65:16
 72:17,25 78:19
talked 6:12 19:18 25:20
 47:21,24 65:22 66:17,18
 76:13
talking 8:8 18:25 19:1
 22:6 37:17 41:4 44:14
 54:18 55:18 64:16 70:20
 74:11 78:18

taught 8:20 10:11 13:23
teach 11:1
teaching 10:12
team 14:25
telephone 26:17
tell 15:23 16:24 23:1 26:17
 45:13,14 49:3,20 53:7
 58:12 65:25 72:21 79:18,
 20
telling 35:4 45:25
tells 26:18
temp 16:2
tensed 20:4 57:11
testified 4:19 48:20 50:16
testifying 45:5
testimony 43:1 44:13 45:4
 51:13,23 53:1,2 57:12,19
 58:3 61:5,7 65:8 69:7
 72:18
thank 6:16 53:20 72:6
thing 20:9
things 35:13
think 8:7,12 11:11 15:11
 16:7 17:5 18:23,24 19:3,4,
 13,22,24 20:8,21 21:21,25
 28:3,4,25 33:4 39:9 40:4
 47:4 49:7 51:13 59:5
 63:20 65:23 66:20 67:6,7
 68:24 73:20 77:9 79:23
third 30:11 71:6 72:4
Thirty 7:12
thought 14:7 59:21 60:1
 68:11
thousand 12:21 13:2,16,22
three 17:2,9 19:23 21:21
 31:4 33:2 54:22 55:16
thumb 38:15
tie 56:6
time 12:5 14:15 15:10,12
 23:13 24:3,8,9,14,18
 27:14,16,20,24 31:24 36:4
 40:6 41:14,25 42:23 48:4,
 14 52:12 53:7 54:12 55:4
 56:5,19 60:1,5,11 64:3
 65:17,20 66:24 70:10
 72:22 75:9 79:9,10
times 21:9 26:7,8,9 55:21
 72:7
tired 4:9
today 4:15 6:5,10,13 73:3
told 19:18 29:4 35:21 36:6
 43:19 64:15 66:3 67:4,17
top 52:5
touch 22:25
touched 23:19

touching 52:24
traffic 21:12
trained 9:23 10:3,9
training 7:22 8:11,12,16
 9:3,14 10:21 21:2
trainings 8:5,6,10,14
 10:14
transcribed 34:24
transcript 33:13,17 42:4,8
 54:2 61:24,25
trial 4:18,19 7:17 45:3,4
 50:15 54:2,4 61:15 62:10
 72:20
trials 72:19 73:5
tried 50:7 51:9
trooper 64:17,18
truck 18:24,25 20:1,8,9,
 11,13,16 28:4 36:5,12,23
 50:17 54:12 57:11,25
 64:24 65:2
try 8:23 17:2 62:16
trying 8:7 17:10 19:13,23
 20:8,16,17,23 24:10 25:15
 40:19 48:21 50:25 56:9
 59:21 69:3 71:13
tug 20:15
turn 22:22 33:10 34:21
 38:1 39:21 41:10 50:22
 52:3 56:20 61:20 75:4
turning 57:9
two 16:16 29:5 37:18 42:4
 45:25 46:3 48:14 54:5,6
 55:10,11,17 60:5 61:16
 73:4 78:22
typed 31:11

U

U-10 65:23 66:11
U-10.100 66:13
U-10.100. 67:6
U-10.128 66:17
U-10.128s 8:12
uh-huh 7:15 12:24 17:18
 19:7 22:17 25:12,25 27:1
 29:10,19 30:3 31:12,20
 34:4,23 39:23 41:11,16,21
 42:15,21 43:3 48:23 51:7
 53:3 55:25 56:3 58:18
 60:22 68:21
Uh-uh 6:11 12:20 59:3
 63:9 73:16
underneath 51:4 70:11
understand 5:1 25:15
uniform 14:9,10,13,15,19,
 20

unit 15:17
unsure 23:21
update 9:10
updated 9:8
updates 9:12,15
upper 30:18 37:16 41:5
 44:2,14
use 9:24 10:16 11:5,20
 12:2 13:24 26:15 32:11,16
 77:15
use-of-force 73:3
Usually 18:1 31:2
utter 78:6

V

van 64:7,10,12
vans 15:1,2,3
vehicle 35:3 39:25 40:11,
 16 45:15,17,20 46:1
 48:15,24 49:4,9,11,13,18,
 21,23 50:1 52:14,15,25
 56:25 65:5
verbal 77:9
versus 41:8
video 31:18 34:13 46:16,
 17,25 47:6,14 48:1,18
 55:9 59:1 63:13 64:4
 78:25 79:11
videos 46:13
view 29:4
voice 63:19
volunteered 77:8

W

wait 10:8
walked 48:4,6,11 78:3
walking 46:21 47:3,8
want 5:9 13:4,10,12 21:13,
 15 41:19 48:5 52:18,19
wanted 35:6
war 20:15
warrants 21:25
wasn't 20:20 24:4,7 36:12,
 15 64:16 76:19
way 5:2 7:24 10:3 18:2
 19:16,17 23:14,17 65:18
we'll 5:10 46:13 54:7
we're 8:20 10:9,11 17:23
 18:14 21:12 23:3,4,5
 35:21 44:14 45:8 69:21
 70:4 74:11
we've 34:6 39:1
weapons 45:15 49:11,21

weight 25:7 26:10
went 15:21 17:4 19:14,16,
 24 20:6 28:25 39:17,18
 51:3,22 52:1 54:12 61:2,3
weren't 50:6
whichever 19:16
white 14:7,21,22 28:20
 29:11,13 55:11,13
witness 50:23 53:20 62:23
 74:25 75:2
witnesses 6:13
woman 22:6 28:18,22
 29:3,5 56:17
words 31:11 71:19
work 12:22
wrap 55:14
wrestling 69:21
write 66:19 67:16,24 73:9
writing 8:12
written 10:15 67:8,11
wrong 55:22
wrote 30:7,9 31:21,23
 32:9,15 65:23 67:7

Y

yanking 20:7
yeah 4:20 8:15 9:4 11:6
 16:22 17:15,16 19:5 21:6
 23:1 25:4,18,19,22 26:2
 31:21 37:20 38:22 49:7
 53:1 58:5 59:6 61:15
 63:17 64:11 65:15 69:17,
 24 76:8 77:7 78:17
year 8:21 9:14,15
yearly 8:6,8
years 6:25 7:10 17:2,9
 19:23 33:2 61:16 74:11
yelled 39:13,14 59:8,9
yelling 29:2
yep 31:15 53:15